

ECONOMICS OF LABOR RELATIONS

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BY

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AND

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THIRD EDITION



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TO SUMNER H. SLICHTER

PREFACE

This book represents the third edition of the authors' work. The second edition has been thoroughly revised and brought up to date. As in the second edition, much space has been given to current problems and to new approaches to the study of the labor market. Judgments of teachers have been sought so that what were considered relatively unimportant issues could be condensed.

As in the earlier volumes, a major objective has been the integration of economic facts and economic analysis so that the student may acquire not only an awareness of labor problems but also an understanding of conflicting views concerning their causes and possible solutions. Wherever possible, the writers have incorporated in their discussion the latest views and approaches to various labor problems which have appeared in recent articles in professional journals. In order to stimulate classroom discussion, the pros and cons of such controversial issues as the shorter workweek, supplemental unemployment compensation, profit sharing, and the Taft-Hartley Act have been thoroughly examined in the text. Considerable effort has been made to spell out clearly economic principles and the techniques of economic analysis. Wherever possible, charts and tables have been utilized to this end.

The authors have not attempted to write a text with a general theme or a particular slant. Their main interest has been in making available to the teacher and student a text which discusses the field of labor problems in a clear, comprehensive, and interesting fashion. The material contained in the text has been organized in a manner which it was felt would make the study of labor problems both enjoyable and understandable to the beginning student. Part I, which contains a general introduction to the field of labor problems, is intended to orient the student to the subject matter. Parts II and III give a picture of labor history, union structure and government, and collective bargaining techniques. Part IV uses the tools of economic analysis to illuminate a variety of labor problems. Part V discusses wage and hour regulation and the movement toward a shorter workweek. Part VI describes in detail various programs—governmental, union, and industry—for obtaining security

for the aged, the unemployed, and the sick and the injured. Part VII deals with the increasingly important role of government in labor relations. It contains a detailed analysis of the Taft-Hartley Act.

This text was designed for both one-semester and full-year courses. Parts I, II, and III, and some of the chapters included in Parts V and VI, contain material which one of the authors has utilized for an introductory semester course in labor problems; and the complete book follows, in general, this author's outline for a full-year course. Part IV, containing nine chapters, can be utilized as a basis for an advanced semester course in the economic theory of labor. Parts V, VI, and VII are suitable, both in length and treatment of the subject matter, for a one-semester course in governmental regulation of labor relations.

The authors are grateful to Professors Walter Galenson of the University of California and Edwin Young of the University of Wisconsin for providing critical reviews of the original edition preparatory to the writing of the second edition. Miss Miriam Civic provided the basic research and assisted in the drafting of Chapters 19 and 21. Mrs. Gordon F. Bloom and Mrs. Diana Gall typed the manuscript and also assisted in editing. The authors are grateful to the following organizations, publishers, and journals for permission to quote copyrighted material: National Industrial Conference Board, McGraw-Hill Book Co., University of Chicago Press, Brookings Institution, American Economic Association, *Antioch Review*, *Labor and Nation*, Stanford University Press, *Southern Economic Journal*, American Management Association, Harper & Brothers, Remsen Press, Houghton Mifflin Co., *The Atlantic Monthly*, Twentieth Century Fund, Russell Sage Foundation, W. W. Norton & Company, Inc., *Quarterly Journal of Economics*, The Macmillan Company, *Harvard Business Review*, the Philosophical Library, and the Bureau of National Affairs, Inc.

This book represents a joint undertaking for which joint responsibility is shared. The authors hope that their combination of academic background plus practical experience in the field of labor relations has enabled them to introduce into this text a viewpoint and ideas which will make the field of labor as vital and interesting to the student as it has been to them.

The dedication, as in the earlier editions, has been made to the scholar who so profoundly influenced the thinking, not only of the authors, but of a whole generation of labor economists as well.

GORDON F. BLOOM
HERBERT R. NORTHRUP

April 1, 1958

TABLE OF CONTENTS

PART I. INTRODUCTION

CHAPTER	PAGE
1 THE NATURE OF LABOR PROBLEMS	3
<p>WHO IS LABOR? WHO ARE EMPLOYERS? THE LABOR FORCE: Growth and Composition. Women at Work. The Older Worker. Racial Composition. Occupation and Socio-economic Status. WHAT IS A LABOR PROBLEM? Attitudes toward Labor Problems. PSYCHOLOGICAL ASPECTS OF LABOR PROBLEMS: Psychology of Union Organization. The Psychology of Strikes. SOCIOLOGICAL ASPECTS OF LABOR PROBLEMS: The Impact of Laborsaving Invention. Heterogeneity of American Labor. LEGAL ASPECTS OF LABOR PROBLEMS: Organized Labor and Common Law. Labor Legislation. THE ECONOMIST AND LABOR PROBLEMS. THE CHANGING INSTITUTIONAL AND ECONOMIC BACKGROUND. ORGANIZED LABOR AND LABOR PROBLEMS.</p>	

PART II. UNION HISTORY AND GOVERNMENT

2 HISTORY OF THE AMERICAN LABOR MOVEMENT	31
<p>THE CONDITIONS OF ORGANIZATION. THE AMERICAN ENVIRONMENT: Class Fluidity. Resources and Land. Wide Markets. Heterogeneous Population. Social and Legal Background. THE BEGINNINGS, 1790-1825. The Conspiracy Doctrine. CITY-WIDE MOVEMENTS, 1825-37: Politics and Federation. REFORMISM AND CO-OPERATION TO NATIONAL ORGANIZATION, 1840-67. THE KNIGHTS OF LABOR. THE RISE OF THE AMERICAN FEDERATION OF LABOR: Samuel Gompers. AFL Philosophy. The Injunction and the Yellow-Dog Contract. Industrial Relations, 1880-1914. The IWW. WORLD WAR I TO THE GREAT DEPRESSION: Company Unions. The AFL Decays. William Green. Labor under the New Deal. Power and Structure Conflict. CIO Is Formed. The CIO Organizes Steel, Rubber, Autos, and Other CIO Drives. World War II to the Korean War. COMMUNIST UNIONISM: Communism in the 1920's. Infiltration into the CIO. More Party-Line Shifts. The Significance of Communism. RELIGIOUS LEADERSHIP IN UNIONS. THE ACHIEVEMENT OF LABOR UNITY. AMERICAN UNIONS TODAY: The Declining Rate of Union Growth. Concentration of Union Membership. Labor in Politics. Labor Unions and Politics in the Future.</p>	
3 UNION STRUCTURE AND GOVERNMENT	84
<p>ORGANIZATIONAL STRUCTURE. DETERMINANTS OF UNION STRUCTURE: Technological and Market Developments. The NLRB and Union Structure. Deciding Jurisdictional Claims. DETERMINANTS OF UNION GOVERNMENT: Administrative Determinants. Effect of Rival Unionism. The Effect of Legislation and Court Decisions. Imitative Elements. Power Elements. THE NATIONAL OR INTERNATIONAL UNION: The Referendum. National Union Officers. Tenure of National Union Officials. Appointive Officials. INTERMEDIATE UNION GOVERNMENT. THE LOCAL UNION: Local Jurisdiction and Size. Local Union Officers. Duration of Local Union Office. The Shop Steward. Local Union Meetings. UNION FINANCE: Dues and Fees. The Problem of High Fees. Salaries. Union Financial Methods. Net Worth of Unions. ADMISSION POLICIES: Racial Exclusion. Other Exclusions. Closed Unions. Reasons for Union Exclusionary Policies. JUDICIAL PROCEDURE IN UNIONS: Procedure. Status of Members during Appeal. Analysis of Union Judicial Procedure. Government Intervention. DEMOCRACY AND BUREAUCRACY: Gradual Bureaucratization. The Remedies. LABOR RACKETEERING: Causes of Racketeering. Racketeering and Public Policy. THE GOVERNMENT OF THE AFL-CIO.</p>	

PART III. COLLECTIVE BARGAINING

4 ORGANIZING AND NEGOTIATING	139
ORGANIZING: Winning Union Recognition. WHEN THE UNION ENTERS: Problems of Early Adjustment. Grievance Settlement. Negotiating the Contract. Satisfying the Constituents. THE SOCIAL SETTING OF COLLECTIVE BARGAINING. THE COLLECTIVE AGREEMENT: Duration of Agreements. The Living Document Issue. A Paradox in Collective Bargaining. Bargaining during the Life of the Agreement—Grievance Disputes. Typical Grievance Cases. Bargaining during the Life of the Agreement—New Issues. THE SCOPE OF BARGAINING: The Meaning of Managerial Prerogatives. SETTING UNION POLICY FOR COLLECTIVE BARGAINING: The Shift to National Control. The Formulation of Demands. Negotiating Personnel and Its Powers. SETTING MANAGEMENT POLICY FOR COLLECTIVE BARGAINING.	
5 THE CONTENT OF COLLECTIVE BARGAINING: WAGES	170
Payment by Time. Payment by the Piece—Incentive Wages. Union Policies and Incentive Wage Methods. Incentives and Collective Bargaining. Profit-Sharing Plans. FRINGE BENEFITS: Development of Fringe Benefits. FORMALIZATION OF WAGE STRUCTURE. SUMMARY.	
6 THE CONTENT OF COLLECTIVE BARGAINING: INDUSTRIAL JURISPRUDENCE	186
NO UNIFORMITY OF RULES. UNION SECURITY. CONTROL OF ENTRANCE TO THE TRADE: Regulation of Apprenticeship. Licensing Legislation. CONTROL OF HIRING: Methods of Controlling Hiring. Hiring Halls. Closed Unions and Hiring Halls. CONTROL OF LAYOFFS: Seniority. Some Effects of Seniority. Division of Work. Analysis of Division of Work. Dismissal Wages. MAKE-WORK POLICIES: Restrictions on Output. Unnecessary Work and Unnecessary Men. Make-Work Legislation. Comments on Make-Work. TECHNOLOGICAL CHANGE: Obstruction. Competition. Control. Automation.	
7 MULTIUNIT BARGAINING, STRIKES, AND THE LABOR MONOPOLY ISSUE	217
MULTIUNIT BARGAINING: The Extent of Multiunit Collective Bargaining. Reason for Development of Multiunit Collective Bargaining. Multiunit Bargaining as a Problem. STRIKES: Classification of Work Stoppages. Noneconomic Factors in Strikes. Strike Tactics. UNIONS AND MONOPOLY POWER: Aspects of Union Monopoly Power. Attempts to Limit Union Monopoly Power.	

PART IV. ECONOMICS OF THE LABOR MARKET

8 THE LABOR MARKET	243
DEFINITION OF LABOR MARKET. DIFFERENCES BETWEEN LABOR MARKETS AND COMMODITY MARKETS: Diversity of Rates. Wage Fixing in the Labor Market. Lack of Mobility. GETTING AND HOLDING A JOB. CHANGING JOBS. GEOGRAPHICAL DIVERSITY IN WAGE RATES: North-South Wage Differentials. Union Policy and Regional Differentials. INDUSTRIAL DIFFERENTIALS. DIFFERENTIALS DUE TO SEX AND RACE. DIFFERENTIALS IN OCCUPATIONAL REMUNERATION. EQUALIZING DIFFERENCES. NONEQUALIZING DIFFERENCES. NONCOMPETING GROUPS. UNIONS AND WAGE DIFFERENTIALS. SUPPLY AND DEMAND IN THE LABOR MARKET.	
9 THE SUPPLY OF LABOR	265
VARIATIONS IN LABOR SUPPLY: Role of Nonwage Factors. Short-Run Supply of Labor. Classification of Variations. THE SUPPLY CURVE OF LABOR TO THE FIRM: Labor Supply to a Large Firm. Labor Supply to a Small Firm. Causes of Rising Labor Supply Curve. Effect of Union Organization on Supply Curve. THE SUPPLY CURVE OF LABOR TO AN INDUSTRY. THE SUPPLY CURVE OF	

CHAPTER	PAGE
LABOR FOR THE ECONOMY: Hours of Work. CHANGE IN EFFICIENCY. LONG-RUN SUPPLY OF LABOR. SUMMARY.	
10 THE DEMAND FOR LABOR	288
THE WAGES-FUND THEORY. THE MARGINAL-PRODUCTIVITY THEORY: The Role of Profit Maximization. Long-Run Adjustments. DEMAND FOR LABOR IN THE INDIVIDUAL FIRM: Significance of Monopolistic Competition. Geometry versus Reality. THE LAWS OF PRODUCTION. THE LAW OF DIMINISHING RETURNS: Significance for Marginal-Productivity Theory. THE LAW OF SCALE: Significance for Marginal-Productivity Theory. MARGINAL-PRODUCTIVITY CALCULATIONS: Approximate Nature of Calculation. Nature of Marginal-Productivity Calculations. Value of the Marginal Physical Product of Labor. The Marginal Revenue Product of Labor. CONDITIONS OF PROFIT MAXIMIZATION IN THE INDIVIDUAL FIRM: Determination of Optimum Employment. EXPLOITATION OF LABOR: Rising Supply Curve of Labor. Consequences of Exploitation. UNIONS AND MARGINAL-PRODUCTIVITY THEORY. Effect of Union Rules. DEMAND FOR LABOR IN THE ECONOMY. CRITIQUE OF THE MARGINAL-PRODUCTIVITY THEORY. THE BARGAINING THEORY OF WAGES. SUMMARY.	
11 WAGE DETERMINATION	320
THE INTERNAL WAGE STRUCTURE. THE EXTERNAL WAGE STRUCTURE. GENERAL WAGE INCREASES. CRITERIA IN GENERAL WAGE ADJUSTMENTS: Intra-industry Comparative Standards. Interindustry Comparative Standards. Cost of Living. Ability to Pay. Other Criteria in Wage Determination. UNION ATTITUDES IN WAGE DETERMINATION: Union Attitudes toward Wage Cuts. Unemployment and Union Wage Policies. Wage Policy as a Tool. POWER ASPECTS OF WAGE DETERMINATION. SUMMARY.	
12 THE PROBLEM OF UNEMPLOYMENT	349
UNEMPLOYMENT: PRICE OF A FREE LABOR MARKET. UNIONS AND ECONOMIC STABILITY. NEED FOR UNEMPLOYMENT STATISTICS. WHAT UNEMPLOYMENT IS NOT. DEFINITION OF UNEMPLOYMENT: Bureau of Census Definition of Unemployment. THE VOLUME OF UNEMPLOYMENT. TYPES OF UNEMPLOYMENT. CYCLICAL UNEMPLOYMENT: Characteristics of Cyclical Unemployment. SECULAR TRENDS IN EMPLOYMENT: Theory of Secular Stagnation. SEASONAL UNEMPLOYMENT: Seasonality in Agriculture. TECHNOLOGICAL UNEMPLOYMENT: Possibility of Permanent Technological Unemployment. Effects of Laborsaving Improvements. Technological Progress and Employment Opportunities. Automation and Unemployment. WAGE DISTORTION UNEMPLOYMENT. FRICTIONAL UNEMPLOYMENT. A FULL EMPLOYMENT ECONOMY: Employment Act of 1946. APPROACHES TO FULL EMPLOYMENT: Governmental Policies. Business Policies. Union Policies.	
13 WAGE CHANGES AND UNEMPLOYMENT	382
WAGE CHANGES IN THE INDIVIDUAL FIRM: Short-Run Effect of Wage Increases. Wage Increases and Layoffs. Relation of Demand Elasticity to Layoffs. Long-Run Effect of Wage Increases. Circumstances in Which Wage Increases Do Not Reduce Employment. Case Study: The Coal Industry. Characteristics of Coal Industry. Effect of Wage Pressure in Coal Industry. Nonunion Competition. WAGE CHANGES IN THE ECONOMY AS A WHOLE: Determinants of Aggregate Spending. Effect of a General Wage Adjustment: Special Case. Effect of General Wage Increase upon Aggregate Spending. Effect of Wage Increase on Borrowing, Investment, and Consumption. Appraisal of Keynesian Approach. UNIONS, INFLATION, AND UNEMPLOYMENT: The Dilemma of Lewis' Law. Critical Limit at Which Wage Increases Produce Price Increases. Limits of Creeping Inflation. Unions and Wage Inflation. Do Unions Accelerate Wage Increases? Negative View. Wage Gains among Unorganized Workers. Influence of Craft Unions and Industrial Unions on Wages. Do Unions Accelerate Wage Increases? Affirmative View. Effect of Unemployment on Union Wage Pressure. Appraisal of the Dilemma.	

CHAPTER	PAGE
14 UNIONS AND THE BUSINESS CYCLE	412
<p>THE ROLE OF WAGE MOVEMENTS IN BUSINESS-CYCLE THEORY: Causes of the Business Cycle. THE EFFECT OF UNIONS ON CYCLICAL WAGE LAG: Union Wage Rates and Nonunion Wage Rates in the Cycle. Factors Affecting Wage Lag. Future Trends in Wage Lag. EFFECT OF WAGE RIGIDITY IN THE DOWNSWING: Effect of Unions on Wage Dispersion. WAGE POLICY AS A RECOVERY MEASURE. WAGE REDUCTIONS IN DEPRESSION: Favorable Effects of Wage Reductions. Difficulties in Using Wage Reductions as Recovery Measure. Unfavorable Effects of Wage Reductions. WAGE INCREASES IN DEPRESSION: Favorable Effects of Wage Increases. Difficulties in Using Wage Increases as Recovery Measure. Unfavorable Effects of Wage Increases. APPRAISAL OF WAGE POLICY AS RECOVERY MEASURE. CYCLICAL EFFECT OF NONWAGE ASPECTS OF UNION ORGANIZATION. MOBILITY OF LABOR AND CYCLICAL INSTABILITY. CYCLICAL VARIATION IN THE EFFICIENCY OF LABOR: Labor Efficiency and Labor Effort. Changes in Man-Hour Output. UNIONS AND WORK SHARING IN DEPRESSION. UNION CONTROL OF THE RATE OF TECHNOLOGICAL PROGRESS.</p>	
15 LABOR PRODUCTIVITY AND THE IMPROVEMENT FACTOR	437
<p>NATURE OF INCREASED PRODUCTIVITY: Factors Affecting Productivity. Variations in Productivity. LABOR PRODUCTIVITY: HERE AND ABROAD. ALTERNATIVE MEANS OF DISTRIBUTING PRODUCTIVITY BENEFITS. HOW GAINS OF INCREASING PRODUCTIVITY HAVE BEEN DISTRIBUTED: Constancy of Labor's Relative Share in National Income. THE ANNUAL IMPROVEMENT FACTOR FOR LABOR: Arguments Advanced for the Improvement Factor. Arguments Advanced against the Improvement Factor. Shortcomings of the Improvement Factor. Effect of Improvement Factor on Wage Movements. Wage Policy and Productivity Changes. THE LABOR DILEMMA: Improvement Factor and Inflation. Alternatives to Inflation.</p>	
16 UNIONS AND INDUSTRIAL EFFICIENCY	495
<p>THE HUMAN FACTOR IN EFFICIENCY: The Impact of Automation. UNION-MANAGEMENT CO-OPERATION: Conditions Producing Union-Management Co-operation. WAGE PRESSURE AND INVENTION: Unions and Industrial Research. Unions and Invention. WAGE PRESSURE AND MECHANIZATION. UNION WAGE MOVEMENTS AND INDUSTRIAL EFFICIENCY. EFFECT OF UNION ORGANIZATION ON TECHNICAL EFFICIENCY. SUMMARY.</p>	
<p>PART V. GOVERNMENTAL WAGE REGULATIONS AND THE SHORTER WORKWEEK</p>	
17 GOVERNMENTAL REGULATION OF WAGES	481
<p>FEDERAL MINIMUM WAGE REGULATION. THE FAIR LABOR STANDARDS ACT: Superminimum Wages. STATE MINIMUM WAGE LEGISLATION: Procedures for Setting State Rates. Coverage of State Laws. How Much Do State Minimums Guarantee? MINIMUM WAGES AND EMPLOYMENT: Theoretical Effects of Minimum Wage. Effects of 25-Cent Minimum in 1938. The Effects of the 75-Cent Minimum. The Effects of the \$1 Minimum. Minimum Wages and the North-South Differential. EMERGENCY WAGE REGULATION. WORLD WAR II WAGE STABILIZATION: Dispute Cases versus Stabilization. Effects of World War II Stabilization. Postwar Inflation. WAGE STABILIZATION DURING THE KOREAN WAR: The Wage Stabilization Board. ANALYSIS OF WAGE CONTROLS OF WORLD WAR II AND OF KOREAN WAR: Different Economic and Psychological Conditions. The Changing Character of Labor and Management. "Stabilization" by Big Bargains. The Future.</p>	
18 THE SHORTER WORKWEEK	519
<p>ROLE OF COMPETITION: Competitive Tendency toward Shorter Hours. The Technological Basis for Shorter Hours. HISTORY OF THE SHORTER-HOUR</p>	

MOVEMENT: Other Federal Hours Legislation. State Legislation. BASIC FACTORS AFFECTING THE TREND TOWARD SHORTER HOURS The Role of Unions. THE ARGUMENTS FOR SHORTER HOURS. 1. HEALTH AND LEISURE. 2. PURCHASING-POWER THEORY. 3. EFFICIENCY AND PRODUCTIVITY: Shorter Hours and Efficiency. The Seven-Day Week. The Five- versus the Six-Day Week. Hours below Forty. 4. HOURS REDUCTION AND EMPLOYMENT: Shorter Hours with Unchanged Basic Wage Rates. Reduction in Hours with Compensatory Wage Increases. Effect of Increasing the Number of Shifts. Interindustry Shifts. Shortages of Skilled Labor. Incidence of Shorter-Hour Program.

PART VI. ECONOMICS OF THE SEARCH FOR SECURITY

19 SECURITY FOR THE AGED 557

SOCIAL SECURITY SUMMARIZED: Social Insurance versus Public Assistance. THE PROBLEM OF OLD AGE: Loss of Breadwinner. THE OLD AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM (OASDI): Benefits. Financing. Administration. Eligibility. The Retirement Test. Coverage of OASDI. OLD-AGE ASSISTANCE. CURRENT OASDI ISSUES: Too Much OAA? Public Pension Protection for All. Pay As You Go versus Reserve Financing. Compulsory Retirement. Insurance Benefits for the Permanently and Totally Disabled. Issues for the Future. INDUSTRIAL PENSIONS: Development of the Bargained Pension. Contributory versus Noncontributory Pension Plans. Funding Pension Plans. Vesting. Area Plans. Compulsory Retirement. Eligibility for and Types of Benefits. Amounts of Benefits. EFFECTS OF BARGAINED PENSIONS: Liabilities and Cost Estimates. Real Costs of Pension. Compulsory Retirement. Pensions and Investment Pensions and Thriftiness. Pensions and the Labor Market. Internal Union Problems Nonunion and Nonpension Competition. Bargained Pensions in a Depression.

20 SECURITY AGAINST UNEMPLOYMENT 602

UNEMPLOYMENT INSURANCE. Development of the Unemployment Insurance Program Coverage of Unemployment Insurance Laws. Eligibility. Benefits. Financing. Experience Rating. Employee Contributions. APPRAISAL OF UNEMPLOYMENT COMPENSATION: Coverage, Eligibility, and Benefits. State Administration, Experience Rating, and Financing. THE DISMISSAL WAGE: Management's Attitude toward Dismissal Wage. Labor's View of Dismissal Wages. The Dismissal Wage and Wage-Employment Equilibrium. Appraisal of Dismissal Wage. Relation to Unemployment Compensation. SUPPLEMENTAL UNEMPLOYMENT BENEFITS: The Guaranteed Annual Wage. Supplemental Unemployment Benefit Plans. Conflict of Insurance Fund and Individual Account Plans. Conflict with State Unemployment Compensation Laws. Appraisal of Supplementary Unemployment Benefit Plans.

21 SECURITY FOR THE SICK AND THE INJURED 635

WORKMEN'S COMPENSATION: The Development of Workmen's Compensation. The Nature of Workmen's Compensation Laws. Nature of Benefits. Administration. Second Injury and Special Provisions. Financing. Analysis of Workmen's Compensation. Accident Prevention and Rehabilitation. TEMPORARY DISABILITY INSURANCE: Development of Disability Insurance. Analysis of State Disability Legislation. HEALTH INSURANCE: Issues in Health Insurance. HEALTH AND WELFARE PLANS: Unions and Welfare Funds. Analysis of Health and Welfare Plans. Welfare Funds and Governmental Health and Compensation Insurance.

PART VII. GOVERNMENT CONTROL OF LABOR RELATIONS

22 UNION TACTICS AND THE COURTS 667

LABOR AND THE COURTS IN EARLY AMERICA: The Conspiracy Cases. The "Motive" Test. The "Means" Test. Restraint of Trade. THE INJUNCTION,

ANTITRUST LAWS, AND THE RIGHT TO ORGANIZE: The Injunction. The Anti-trust Laws. Legal Impediments to Organization. Protection of the Right to Organize. STRIKES, BOYCOTTS, AND PICKETING AND THE COURTS BEFORE 1932: Strikes. Lockouts. Boycotts. Picketing. THE NORRIS-LAGUARDIA ACT: The Norris-LaGuardia Act and the Courts. Reversal of Sherman Act Decisions. PICKETING AND FREE SPEECH: Present Status of Picketing.	
23 THE TAFT-HARTLEY ACT	689
THE WAGNER ACT: Economic and Legislative Background. Wagner Act—Purpose and Content. Unfair Labor Practice Procedure. Representation Cases. Bargaining Unit Problems. Wagner Act, Union Growth, and Strikes THE TAFT-HARTLEY ACT. SCOPE AND ADMINISTRATION OF THE ACT Administration. Extent of Coverage of the Act. HOW THE EMPLOYER WAS AFFECTED: Free Speech. Reinstatement and Disestablishment. Procedural Privileges. HOW UNIONS WERE AFFECTED: Unfair Labor Practices. Loyalty Affidavit. Reports and Financial Accounts. Restrictions on Political Contributions. Contributions to Union Welfare Funds. HOW THE INDIVIDUAL WORKER WAS AFFECTED: Elections. Ban on Compulsory Checkoff. Bargaining Unit Problems. Discrimination against Minority Groups. Other Procedural Safeguards. HOW THE PUBLIC WAS AFFECTED BY THE LAW: Prohibited Strikes. NATIONAL EMERGENCY STRIKES. COOLING-OFF PERIODS. APPRAISAL OF THE TAFT-HARTLEY ACT: Ways in Which the Act Encouraged Effective Collective Bargaining. Ways in Which the Act Impeded Effective Collective Bargaining. THE MOVEMENT FOR REFORM.	
24 THE SETTLEMENT OF LABOR DISPUTES	730
CONCILIATION SERVICE. THE WORK OF THE CONCILIATION SERVICE, 1917–47. THE EFFECTIVENESS OF THE CONCILIATION SERVICE, 1917–47. THE CONCILIATION SERVICE UNDER THE TAFT-HARTLEY ACT. STATE AND MUNICIPAL ADJUSTMENT MACHINERY. State Mediation Agencies. The New York State Board of Mediation. Municipal Adjustment Agencies. RAILWAY LABOR ADJUSTMENT MACHINERY: The Railway Labor Act. Analysis of the Railway Labor Act's Dispute Procedure. WARTIME ADJUSTMENT MACHINERY: The World War I Labor Board. The National Defense Mediation Board. The National War Labor Board of World War II. THE TAFT-HARTLEY ACT AND NATIONAL EMERGENCIES. EMERGENCY DISPUTES AND THE KOREAN WAR. STATE EMERGENCY STRIKE CONTROL LEGISLATION: "Cooling Off" and Compulsory Investigation. Strike Votes. Arbitration, Fact Finding, and Seizure in State Laws.	
25 STATE LABOR RELATIONS LEGISLATION	759
JURISDICTION OF STATE LABOR LAWS. THE "LITTLE WAGNER" AND "LITTLE TAFT-HARTLEY" ACTS: Employer Unfair Labor Practices. Unfair Labor Practices of Employees and Unions. Representation Disputes. RESTRICTIVE LEGISLATION. FAIR EMPLOYMENT PRACTICE LEGISLATION: Other Nondiscrimination Legislation. CONCLUDING REMARKS.	
26 COLLECTIVE BARGAINING BY GOVERNMENT EMPLOYEES	776
THE SOVEREIGN EMPLOYER AND THE RIGHT TO STRIKE. THE RIGHT TO ORGANIZE AND TO BARGAIN COLLECTIVELY: State and Local Legislation. COLLECTIVE BARGAINING IN THE PUBLIC SERVICE: Civil Service and Collective Bargaining. State and Local Governments. A POLICY FOR GOVERNMENT EMPLOYMENT.	
27 THE FUTURE OF NATIONAL LABOR POLICY	788
DEVELOPMENT OF LABOR POLICY. NEED FOR INTEGRATION OF LABOR POLICY. NEED FOR DEFINING ROLE OF UNIONS AND MANAGEMENT. NEED FOR DEFINING ROLE OF INDUSTRY AND GOVERNMENT. LABOR POLICY IN A DEMOCRACY.	

INDEXES

INDEX OF AUTHORS CITED	799
SUBJECT INDEX	801

PART I

Introduction

Chapter

1

THE NATURE OF LABOR PROBLEMS

Wage demands, strikes, unemployment—these are issues of vital public concern today. Through radio, television, and the daily newspaper, all of us have become increasingly aware of the serious labor problems confronting our economy. Labor problems have become everyone's problems. They affect every man, woman, and child—every consumer, employer, and employee.

Today, more than ever, labor issues have become the center of public attention. And today, more than ever, economists and other social scientists are concentrating their study and research efforts on the problems of the labor market. Consider, for example, the ramifications of but one of the numerous labor problems to be discussed in this text: unemployment. Economics, psychology, sociology, law, political science—all these social disciplines must, of necessity, contribute to any thorough, worth-while study of unemployment. Business-cycle theory and distribution theory cast light upon the causes of unemployment. Knowledge of monetary policy is essential in determining possible means of alleviating unemployment. It is the job of the psychologist and sociologist to discover the effects of unemployment upon the displaced worker and his community. And, finally, the tasks of drafting and enacting legislation to aid the unemployed fall to the lot of the lawyer and the statesman.

It is not surprising that labor problems should thus constitute a center of gravity for the various social studies. Labor problems are problems of the worker and his employment. Since, in modern industrial society, the average gainfully employed individual spends more of his waking hours on the job than in any other activity, problems arising out of his employment are of primary importance to him and to the society which reflects his outlook.

WHO IS LABOR?

The term "labor" is used in many different ways. Sometimes it is used as synonymous with the "labor force." This group, as we shall see,

includes all persons who work for a living. Such a definition, therefore, lumps together in the same category the banker and the ditchdigger, the independent storekeeper and the president of the United States Steel Corporation. This heterogeneous group has one common characteristic, namely, that its members work for a living. In this respect they are distinct from other groups in the population, such as the homemakers (housewives), students, pensioners, those too young or too old to work, the incapacitated, and those who, for one reason or another, find it impossible to seek work.

On the other hand, the term "labor" is sometimes used to refer to a much more limited group. For example, when we refer to "skilled labor," we normally mean skilled craftsmen who work for hire for others and who are neither white-collar workers nor professional personnel. This definition excludes both the typist in an office and the doctor in a hospital, although both may work for hire and have highly developed skills.

The term "labor," therefore, may have various meanings and scope depending upon the context in which it is used. If one reads that there are 67 million jobs in the "labor" market, it is evident that reference is made to labor in the broadest sense. On the other hand, if one reads that "labor" opposes the use of the injunction as a strikebreaking weapon, it is likely that the term is intended to apply to a more limited class of men and women, skilled and unskilled, white collar and non-white collar, who are either members of unions or are in groups which lend themselves to union organization.

WHO ARE EMPLOYERS?

During the course of a year, between 6 and 7 million enterprises use some hired labor. About 3 million of these enterprises are farms, and the balance are nonagricultural establishments. A large proportion of these enterprises employ labor for only a part of the year. If we count only those enterprises which employ one "man-year" or more of hired labor (i.e., two men each employed for 6 months would be equivalent to one "man-year"), there are approximately 2½ million employers in this country. About one out of every five of these employers is a farmer. Not more than one half of these employers use three man-years or more of hired labor.¹

In the last few decades, the government—federal, state, and local—has become an employer to millions of Americans. In 1929, about 3.3 mil-

¹ W. S. Woytinsky and Associates, *Employment and Wages in the United States* (New York: Twentieth Century Fund, Inc., 1953), p. 342.

lion persons were employed by government or governmental bodies. By 1955, this number had tripled to about 10 million.²

Employers vary in size from the corner drugstore which employs a boy part time in the summer to help out on the soda fountain to the huge American Telephone and Telegraph Company which employs over a half million workers. Firms in trades and services are for the most part relatively small. Most of the large employers are found in manufacturing and public utilities.

Most employees in nonagricultural establishments are employed by corporations. This means that they are employed by a legal entity which in turn is owned by stockholders, frequently numbering in the hundreds of thousands. Because of the wide holdings of stock in this country, it might be argued that the ultimate employer of labor in the United States is the stockholding public. They own the assets which provide employment and, moreover, as stockholders normally have the right to elect directors and so influence corporate policies.

As a practical matter, however, corporate decisions tend to be made by a class of persons known as management, who are employed by stockholders to manage the day-to-day business of corporations. Management includes executives such as the officers and directors of corporations as well as personnel directors, department heads, and foremen. To the average workman in a large corporation it is this group, and not the remote stockholder owners, who constitutes the employer. We shall discuss at a later point how the division of management function from ownership in American industry and the growth in size of corporations has exercised a profound effect upon the nature of collective bargaining.

THE LABOR FORCE

The "civilian labor force," as that term is currently used by the United States Census Bureau, includes those of the civilian noninstitutional population 14 years of age and over who are employed or unemployed in accordance with the following definitions:

Employed: Those who during the survey week were either

- a) "at work"—those who did any work for pay or profit, or worked without pay for 15 hours or more on a family farm or business; or
- b) "with a job but not at work"—those who did not work and were not looking for work, but had a job or business from which they were temporarily absent because of vacation, illness, industrial dispute, or bad weather, or because they were taking time off for various reasons.

² *Economic Almanac for 1956* (New York: National Industrial Conference Board, Inc., 1956), p. 366.

Unemployed: Those who during the survey week

- a) did not work at all and were looking for work; or
- b) did not work and
 - (1) were waiting to be called back from a layoff,
 - (2) were not in school and were waiting to begin work on a new job scheduled to start in the next 30 days,
 - (3) would have been looking for work except that they were temporarily ill or believed that no work was available in their particular line.

Members of the Armed Forces are added to the civilian labor force to obtain the "total labor force."

The civilian labor force is not a fixed group. In July there are usually 3 or 4 million more job seekers than in January, as students look for work during summer vacations and housewives seek jobs in seasonal farm industries in order to earn extra income. December is another peak period, for it is the time when many persons take part-time jobs in department stores and other businesses experiencing Christmas demand.

The labor force is also affected by cyclical fluctuations. If the chief breadwinner becomes unemployed during a depression, other members of the family may seek jobs. They may remain in the labor force at least as long as the head of the family is unemployed or employed at an income below the previous family standard. In 1933, when 13 million persons were unemployed, an expansion in the labor force of from 1 to 3 million may have been involved.

Despite these seasonal and cyclical variations, an outstanding characteristic of the labor force is its stability in size relative to the population. Under ordinary economic pressures, the labor force does not readily expand or shrink. Changes in the relationship between population and labor force normally require years to consummate, although the impact of the patriotic fervor and high earnings of a war economy (see Table 1, year 1945) or a severe depression may alter long-established habits in this regard. It appears that in peacetime the size of the labor force is based upon deeply rooted habits; on the size and composition of families; on attitudes toward child care, education, and old-age dependency; on the concentration of population; and on the structure and geography of industry.³ Even when the economic pressures are severe, such as during the depression of the 1930's or during World War II, the end of the period of strain appears to be followed by a return to labor-market normalcy. Thus the decline in the labor force in the months following VJ Day was

³ Clarence Long, *The Labor Force in Wartime America* (New York: National Bureau of Economic Research, Inc., 1944), pp. 23, 47

TABLE 1
NONINSTITUTIONAL POPULATION AND THE LABOR FORCE, SELECTED YEARS, 1929-56

Year	Noninstitu- tional Population	Total Labor Force Including Armed Forces	Armed Forces	Civilian Labor Force					Total Labor Force as % of Nonin- stitutional Population	Unemployment as % of Civilian Labor Force	
				Total	Employment *		Unemployment				
					Total	Employment *					
						Agricultural		Nonagricultural			
Thousands of Persons 14 Years of Age and Over											
1929	n. a.	49,440	260	49,180	47,630	10,450	37,180	1,550	n. a.	3.2	
1933	n. a.	51,840	250	51,590	38,760	10,090	28,670	12,830	n. a.	24.9	
1940	100,380	56,180	540	55,640	47,520	9,540	37,980	8,120	56.0	14.6	
1945	105,520	65,290	11,430	53,860	52,820	8,580	44,240	1,040	61.9	1.9	
1950	110,929	64,749	1,650	63,099	59,957	7,507	52,450	3,142	58.4	5.0	
1953	115,094	67,362	3,547	63,815	62,213	6,562	55,651	1,602	58.5	2.5	
1955	117,388	68,896	3,048	65,847	63,193	6,730	56,464	2,654	58.7	4.0	
1956	118,734	70,387	2,857	67,530	64,979	6,585	58,394	2,551	59.3	3.8	

n. a.—not available.

*Includes part-time workers and those with jobs but not at work for such reasons as vacation, illness, bad weather, temporary layoff, and industrial disputes.
SOURCE: Adapted from Table E-17, *Economic Report of President, January, 1957* (Washington, D. C.: U. S. Government Printing Office, 1957), pp. 140-141.

nothing short of remarkable: by April, 1946, an estimated 5½ million persons had left the labor force.

Growth and Composition

The growth of the labor force from 1929 to 1956 and some of its long-term trends during this period are shown in Table 1. The data confirm that the size of the labor force is remarkably stable relative to population, except in periods of extreme economic stress. In 1956 the total labor force rose to 70.4 million, which equaled 59.3 per cent of the non-institutional population 14 years of age and over. This was the highest labor force rate since World War II. Among the significant characteristics of the labor force in this year were (1) the high participation rate of females, which will be discussed in greater detail below; and (2) the high participation of part-time student workers. Part-time workers normally make up about one seventh of the nonfarm work force. More students were working outside of school hours in 1956 than in any previous year since World War II. An estimated 3.4 million high school and college students were gainfully employed at least on a part-time basis at the start of the fall school term in October, 1956.⁴

Women at Work

In 1957, almost one out of every three workers was female. See Figure 1. More and more women have been entering the labor market. This movement of women into gainful employment is not a mere temporary reaction to the needs of industry in time of war or national emergency but a long-run trend of great significance for our economy. This trend has been closely associated with a number of changes, such as the reduction in size of families, the transfer to the factory of much productive work formerly done in the home, the increase in laborsaving equipment and conveniences in the home, and the increasing desire of women for economic independence. The opportunities for women to secure work outside the home have been greatly augmented by the increasing acceptance of women in the professions and in clerical, sales, and similar fields of employment.

The composition of the female labor force has also been undergoing a surprising change of which few people are aware. The typical female worker today is not the young single girl who pounds a typewriter until she can catch her man. The average woman worker today is 39 years old. More than half of the women workers are married; one quarter are sin-

⁴ U.S. Bureau of the Census, *Current Population Reports*, Series P-50 (March, 1957), p. 2.

gle; and the remainder are widowed or divorced. In 1950 for the first time there were more married women than single girls in the labor force. Today one quarter of all working women have children under 18 years. In a quarter of all married couples in the United States, both husband and wife are working for pay.⁵

Women stick to their jobs longer today than a generation ago. Moreover, women work not only before but during the early years of marriage and return to work again around the time they become grandmothers! After World War II, when the number of women working began to drop, the number of female workers aged 45–64 kept right on growing.⁶

Working women account for one fifth of the country's total wages and salaries and for more than one fourth of the total man-hours worked. About one out of every four women workers is employed part time. One third of the women workers are employed in secretarial, clerical, and sales occupations.⁷ They also predominate among machine operators in garment factories, electrical supply plants, and in the shoe-making, textile fabric, and textile spinning industries.

The Older Worker

Another significant trend in composition of the labor force involves the older worker. The labor force has become older since 1900, partly because of a decline in child labor resulting from changing industrial mores and child labor legislation, partly because the birth rate of the 1930's was low and has been reflected in a smaller number of young entrants into the labor force in the 1950's. At the same time, medical advances have lengthened the working life of older workers. The increased mechanization of industry which has lightened the arduousness of work in many fields has also made it possible for older workers to lengthen their years of productive work.

Despite these circumstances, while the average age of the members of the labor force has increased since 1900, the proportion of persons over 65 who are in the labor force has declined. This is attributable in part to the development of social security and retirement plans, in part to the fact that in earlier years many older men were employed on or owned their own farms and worked to a more advanced age, whereas with the shift from farm to industrial employment older persons find it more difficult to retain employment after age 65. In 1890 about 68 per cent of

⁵ U. S. Department of Labor, *The American Workers' Fact Book*, 1956 (Washington, D.C., 1956), p. 29.

⁶ *Business Week*, April 19, 1952, pp. 95, 98.

⁷ *Business Week*, March 16, 1957, p. 161.

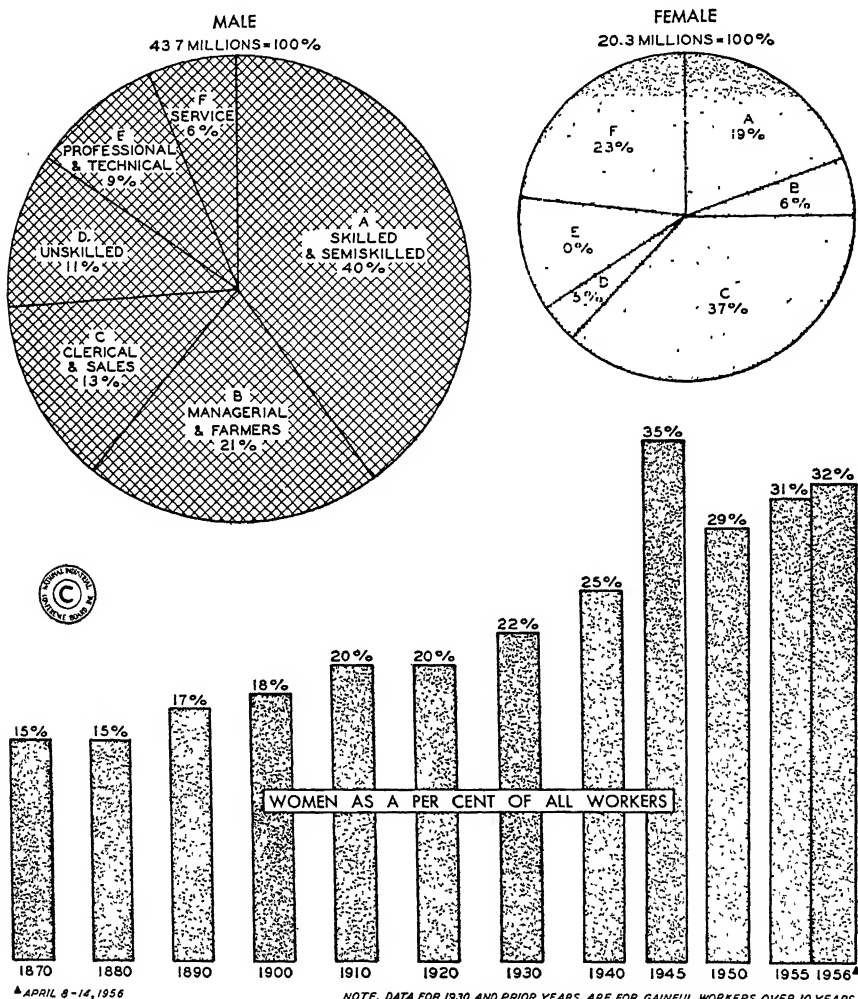
all men 65 years of age or older were in the labor force. In 1955, only 38 per cent were so employed.⁸

Racial Composition

Approximately 10 per cent of the labor force is classified as "non-white"—i.e., Negro, Oriental, or American Indian, the great bulk being

FIGURE 1

EMPLOYMENT BY SEX, UNITED STATES, 1870-1956

EMPLOYMENT BY OCCUPATION, 1956^A

NOTE. DATA FOR 1930 AND PRIOR YEARS ARE FOR GAINFUL WORKERS OVER 10 YEARS OF AGE. THEREAFTER DATA ARE FOR EMPLOYED PERSONS 14 YEARS OLD AND OVER

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Reprinted from *Road Maps of Industry*, No. 1066 (June 1, 1956).

⁸ U.S. Department of Labor, *The American Workers' Fact Book*, 1956 (Washington, D.C., 1956), p. 12.

FIGURE 1—*Continued*

DEFINITIONS OF ROAD MAP TERMS

Definitions shown below are summarized from the 1950 Census of Population, Alphabetical Index of Occupations and Industries, published by the Bureau of the Census.

Clerical and Sales

Clerical: Agents, attendants and assistants at libraries and in physicians' and dentists' offices, bank tellers, bookkeepers, bill collectors, messengers, mail and office boys, stenographers and secretaries, clerks, and others.

Sales: Advertising agents, salesmen, sales clerks, auctioneers, demonstrators, peddlers, insurance and real estate agents and brokers, newsboys, stock and bond salesmen, and others.

Managerial and Farmers

Managers, Officials, and Proprietors: Buyers, railroad conductors, credit men, administrators, managers, superintendents, ship pilots and pursers and engineers, officers of companies and unions, postmasters, and others.

Farmers (owners and tenants) and Farm Managers.

Professional and Technical

Accountants, entertainers, airplane pilots and navigators, architects, artists, athletes, authors, chemists, clergymen, dentists, designers, dietitians, draftsmen, newspapermen, foresters, funeral directors, lawyers, musicians, scientists, registered nurses, optometrists, osteopaths, pharmacists, photographers, physicians and surgeons, radio operators, social workers, economists, psychologists, statisticians, surveyors, teachers, technicians, and others.

Service

Service Workers: Barbers, bartenders, bootblacks, boarding house keepers, cleaners and charwomen, counter workers, elevator operators, firemen, watchmen, stewards, janitors, police and detectives, porters, practical nurses, ushers, waiters, and others.

Private Household Workers: Housekeepers, laundresses, and other private household workers.

Skilled and Semiskilled Labor

Operatives: Blasters, boatmen, brakemen, bus and cab drivers, survey chainmen and rodmen, streetcar and bus conductors, deliverymen, dressmakers, dyers, grinders, graders, packers, smeltermen, laundry and dry cleaning operatives, miners, sailors in the merchant marine, weavers, welders, and others.

Craftsmen and Foremen: Bakers, bookbinders, boilermakers, brick and stone masons, carpenters, concrete finishers, typesetters, electricians, engravers, foremen (excl. farm), furriers, glaziers, inspectors, jewelers, locomotive engineers and firemen, motion picture projectionists, opticians, painters, plumbers, shoemakers, sheet and structural metal workers, toolmakers, armed forces and others.

Unskilled Workers

Laborers: Fishermen, garagemen, longshoremen, stevedores, lumbermen, teamsters, and other laborers.

Farm Laborers and Foremen: Farm foremen, farm laborers, unpaid family workers, self-employed farm service laborers, and others.

Negro. Analysis of the racial composition of the labor force indicates that although differences in characteristics of the nonwhite and white members of the labor force have been considerably narrowed since 1890, they still remain significant. Thus, nonwhite persons go to work at an earlier age and remain in the labor force to a greater extent after 65 years of age; nonwhite women have a greater tendency to remain in the labor force after marriage; and because of high mortality and heavy toll of disability on the job, nonwhite workers have a considerably shorter average working life.

Occupation and Socioeconomic Status

The last decade has witnessed increasing trends toward urbanization and industrialization in the United States. As laborsaving machinery has taken over the backbreaking work which used to be required on the farm, the surplus population from our large farm families has gravitated to the city to seek work in industry. These twin trends toward the city and factory away from the country and farm have been reflected in a change in occupation of the labor force. In 1900, about one out of every three persons gainfully employed was engaged in farming or other agricultural pursuit. Today only about one in thirteen persons is so employed.

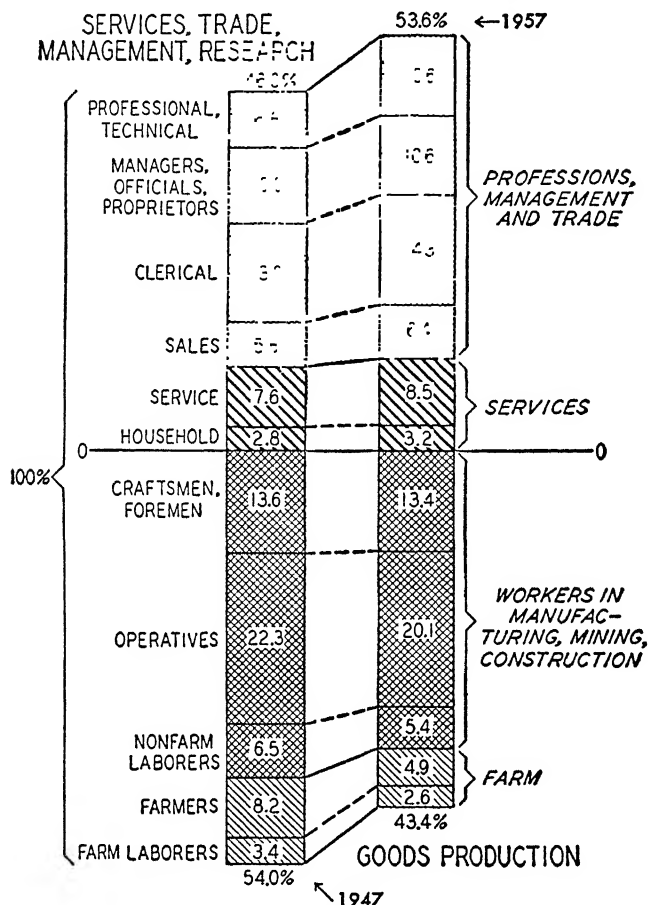
Figure 2 shows the trend in employment in farm laborers and other socioeconomic groups between 1947 and 1957. The increasing importance of professional and clerical groups and the diminishing importance of farm laborers is apparent. Figure 2 also illustrates another very important trend in the labor force—the trend away from the goods-producing sector of the economy. In 1957, only 43.4 per cent of workers were directly involved in goods production.

Table 2 shows how employment in 1955 was divided between the goods-producing and service sectors of the economy. As can be seen, manufacturing is still the most important source of employment opportunities. However, over the years the great growth in employment opportunities has occurred not in manufacturing but in the mushrooming service, government, and trade divisions. Although modern technology has been converting our economy into a nation of employees, it has not been building a proletariat. Scientists, professional workers, supervisors, artists, teachers, and other white-collar workers have been increasing from two to thirteen times as fast as the total working population. On the other hand, the number of common laborers has dropped from 8.9 million in 1910 to 5.9 million in 1956.⁹ Between 1870 and 1940, technical engineers

⁹ S. H. Slichter, "The Growth of Moderation," *Atlantic Monthly*, October, 1956, p. 62.

FIGURE 2

SOCIOECONOMIC STATUS OF EMPLOYED WORKERS, 1947 AND 1957

SOURCE: National Industrial Conference Board, Inc., *Business Record*, July, 1957, p. 312.

increased over thirteen times as fast as the gainfully employed; bookkeepers, cashiers, and accountants, eight times; artists, sculptors, and art teachers five times; college professors and other teachers three times. During the same period, college graduates have increased ten times as fast as the gainfully employed.¹⁰ The growth of the white-collar group reflects in part the expansion in government employment. In 1957, one out of every seven employees was a government worker.

The traditional middle-class occupations are those of self-employed business owners (farmers, shopkeepers), professional and technical

¹⁰ S. H. Slichter, *The Challenge of Industrial Relations* (Ithaca, N.Y.: Cornell University Press, 1947), pp. 1-2.

TABLE 2
MAJOR INDUSTRY GROUP OF EMPLOYED PERSONS IN 1955
(In Thousands)

<i>Goods</i>	<i>Employment (000)</i>
Manufacturing	16,551
Agriculture	8,237
Contract Construction	2,505
Mining	748
Total	28,041
<i>Services</i>	
Trade	10,721
Government	6,924
Services and Miscellaneous	5,693
Transportation and Public Utilities	4,055
Finance, Insurance, and Real Estate	2,192
Total	29,585

SOURCE: *Monthly Labor Review*, March, 1956, p. 279.

workers (some self-employed and others employees of business firms and the government), salespeople, and clerical workers. In 1910 the workers in these occupations constituted 39.6 per cent of employed persons; in April, 1956, they constituted 45.8 per cent. This increase was registered in the face of a big drop in the number of self-employed farmers from 17.3 per cent of employed persons in 1910 to 6.1 per cent in April, 1956.¹¹ The increasing importance of middle-class occupations in our economy has tended to strengthen the forces of conservatism and moderation and to some extent to make more difficult the task of union organization.

WHAT IS A LABOR PROBLEM?

We have reviewed briefly the composition and characteristics of the labor force. The labor force, we have seen, includes all of the gainfully employed persons in the country. Naturally these people in their day-to-day struggle to earn a living have many problems. What are the circumstances which raise certain of these difficulties to the status of a "labor problem," as that phrase is commonly used?

"Labor problems" typically involve only a certain segment of the civilian labor force. A simple illustration will serve to indicate the criterion which separates the group with which we are concerned from other members of the labor force. Consider the case of John Jones, the independent grocer, who owns his own store and is self-employed. His income depends upon the margin between his sales receipts and the cost of his

¹¹ Slichter, "The Growth of Moderation," *op. cit.*, p. 61.

wares, after covering expenses of operation. Suppose competition from other grocers compels him to reduce prices so that as a consequence his income is cut in half. John Jones may now complain that his labor is not being adequately compensated; yet ordinarily this circumstance would not be considered a labor problem.

Now, change the facts slightly. John Jones employs ten clerks in his store. Competition forces him to cut their wages in half. Here we have a labor problem. What is the essential difference between the two cases? The difference lies in the fact that John Jones is self-employed, while his clerks work for wages and are therefore dependent upon their employer for their livelihood. Labor problems grow out of the economic activity of that part of the working population which offers its services for hire to *others* and receives its compensation in the form of wages or salaries. Because they are dependent upon others to offer them employment, wage and salary earners are subject to the risk of unemployment. Because they are dependent upon employers for their daily income, their interests frequently clash with those of the latter group. The result is strikes, lockouts, slowdowns, and other manifestations of labor strife. Finally, because they have this common bond of dependence upon others for their employment and income, a certain feeling of solidarity tends to exist among members of this group, despite the diversity of their occupations. This sense of a common status has led many of them to join together in unions to present a common front to their employers and to the owners of the means of production.

Attitudes toward Labor Problems

Having delimited the group which is normally involved in "labor problems," let us next consider what it is that determines whether a given set of circumstances constitutes a "problem." Whether or not a given situation will be classed as a problem depends in large measure upon the outlook and bias of the individual. For example, labor problems to the average employee are synonymous with strikes, lockouts, inadequate wages, and unemployment. To the employer, the term calls to mind rising labor costs, diminishing man-hour output, stoppages, and interference with managerial prerogatives. Consumers have still a different viewpoint—to them the labor problem is largely presented in terms of shortages due to work stoppages, high prices occasioned by high wage costs and low efficiency, and inadequate utilization of available labor. Some conditions such as chronic unemployment will be recognized by all groups as a problem requiring solution. With regard to other situations, however, such as the stretch-out in the textile industry, where a worker is required to

man more than one machine, there will be less unanimity. Employees will denounce it as a health hazard; employers will support it as a competitive necessity; and consumers' views will differ depending upon whether they give greater weight to lower prices or to the possible physical impairment of workers.

In the last analysis, whether or not a particular situation will be recognized as a problem area will depend upon society's judgment that the dangers inherent in the situation outweigh its possible benefits to the community. This judgment, representing as it does the joint appraisal of all groups in the community, will shift with changing social mores. In colonial times the question of the length of the working day was not a problem. Custom decreed a working day from dawn till dusk, and any increase in idle time was viewed as an invitation to the devil! Yet today the shorter-hour movement is one of our most pressing problems and presents a continuing source of friction in employer-employee relations. A similar ripening of public recognition has characterized such problems as child labor, industrial accidents, and technological displacement of labor.

There is one further characteristic of a labor problem, as we shall use the term, which requires attention. Labor problems, as a phenomenon of American industrial development, have arisen from voluntary employer-employee relations in a free labor market. Labor problems are a manifestation of freedom of choice in economic activity. Strikes and lock-outs, for example, are concrete demonstrations of the freedom of the employee not to work, and of the corresponding privilege of the employer not to hire. Strikes, unemployment, wage demands, and other aspects of the labor problem in America are phenomena which can exist only in a democratic society. Communists boast that in Russia there is no unemployment, no strikes, no conflict over wages. The reason is that there is no freedom of choice. Both management and labor are shackled by the arbitrary whim of a dictatorial bureaucracy.

PSYCHOLOGICAL ASPECTS OF LABOR PROBLEMS

Labor problems are problems of human beings—of their individual inner needs and motivations, of their interactions with other human beings. Labor problems are therefore basically psychological problems. Most of the difficulties between management and labor can ultimately be explained in terms of the individual's desires for self-expression, prestige, security, and self-betterment. In a capitalistic economy, these are the dominant human motives which must be reasonably satisfied if labor and management are to be able to live together in peace. Until comparatively re-

cently, American business ignored the first three motives enumerated and erroneously assumed that if the desire for self-betterment were satisfied, workers would be content and docile even though they were denied any voice in determining the conditions of employment. American employers therefore sought to erect a bulwark against unionism in the form of high wages, short hours, and good conditions of work. In pursuing this policy, employers misjudged the basic personality of their workers, and, as a consequence, unions were able to gain a foothold even in the most paternalistic establishments.

Psychology of Union Organization

What did unions have to offer? In many plants in which unions were successful in organizing the employees, wages were already higher than in union shops in the industry. But the union leader could promise the worker what the employer had overlooked. The worker wanted more than dollars in his pay envelope; he wanted security and an opportunity to be treated like an individual. He did not want to be herded blindly like a well-fed sheep. He wanted a voice in matters that he conceived to be of vital importance to performance of his daily work. If the line were speeded up, he wanted to know why and to be able to voice his objection without fear of being fired.

Thus—oddly enough—in unionism, a group movement, the worker was able to find a medium through which to assert his individual personality. Unionism has given new dignity and importance to the status of the individual worker. For example, in most organized plants, his individual grievances are now promptly and fairly handled by bipartisan grievance machinery in which management and union are equally represented. Personnel administration, catering to the needs of the individual worker, has become an increasingly important aspect of efficient plant management. Moreover, unionism itself, as a functioning institution, has afforded many opportunities for workers to develop and to assume positions of leadership. A worker may become a shop steward, or business agent, or member of a grievance committee, or a union officer. These positions have filled a need for constructive self-expression by the individual worker which modern industry with its emphasis upon machine operation had failed to satisfy. Thus unionism has performed a valuable service in promoting the psychological well-being of the worker.

The Psychology of Strikes

Recognition of the psychological needs of the worker affords a basis for understanding many of the clashes which flare up between employees

and management, even in industries having satisfactory collective bargaining relations. Take, for example, the case of the so-called "wildcat" strike in which some employees will walk off the job without the sanction, and frequently against the express orders, of the union officials. What causes these walkouts? Obviously, a variety of factors may be responsible, depending upon the particular situation, but, in many cases, a common psychological cause may be found. Much of the work that the average employee performs in a modern industrial plant is dull, routine, and psychologically unrewarding. Monotony produces fatigue and tension. Management has recognized that this detracts from productive efficiency, and it has achieved surprising success in some plants in reducing such fatigue and tension by use of short rest periods interspersed throughout the working day. Often, however, a spontaneous wildcat strike may be the outlet which employees unconsciously use to reduce nervous tension.

SOCIOLOGICAL ASPECTS OF LABOR PROBLEMS

Labor problems are also sociological problems. They are problems concerning the relationship of various groups in the community and their reaction to changes in the economic and social environment. Most American families are dependent upon wage or salary earners for their incomes. Consequently, the stability and integration of the typical American community depend to a large extent upon the welfare of its workers.

The Impact of Laborsaving Invention

Nowhere is this interdependence more graphically demonstrated than in the study of the repercussions of technological unemployment upon the community. Consider, for example, the effect of the introduction of the continuous automatic strip mills in the steel industry. These automatic mills constituted the greatest laborsaving development of the decade of the 1930's. So great was the laborsaving capacity of these new mills that it has been estimated that 126 men in one automatic mill could produce the same tonnage as 4,512 men operating 96 sheet mills of the conventional type.¹²

Although the laborsaving effect of these new mills was obscured by the high level of employment which prevailed during the decade of the 1940's, their introduction during the less prosperous years of the preceding decade had profound economic and sociological repercussions. So great was the displacement of labor that thriving steel towns became

¹² Philip Murray, *Technological Unemployment*, United Steelworkers Publication No. 3 (Pittsburgh: United Steelworkers, 1940), p. 10.

ghost towns overnight. Employees of the old hand mills were thrown out of work, young people were unable to find jobs, shopkeepers lost business, delinquency increased. Although the economist, reasoning in terms of abstract theory, may conclude that after the displaced workers have shifted to other industries, national income and employment will be greater than before the innovation, the sociologist's job requires him to take account of the social disorganization, abandonment of homes, broken careers, and other effects on the individual and his community which occur before such a transfer has been accomplished. The difference in viewpoint, however, is one of emphasis only, and at some points the interest of the sociologist and economist will coincide. For example, the labor economist who is studying the effect of a technological innovation will be interested in the reaction of employment, costs, prices, national income, and investment. But he will also be concerned with the length of time required for the displaced worker to obtain new employment, the extent to which the worker can utilize his former skills in his new employment, and the effect of the displacement on his income. These conditions will also be of interest to the sociologist since they will bear upon the position of the worker in his community and the extent to which he will be able to maintain his former associations.

Heterogeneity of American Labor

This brief discussion of the sociological aspects of labor problems cannot be brought to a close without at least observing that the American labor movement, itself, presents interesting sociological problems. American labor, like the population as a whole, is characterized by a mingling of diverse races, many of whom have transplanted from their native lands peculiar customs, prejudices, and ideas. The cohesiveness of labor unions and the effectiveness of their action as a group have been handicapped by the heterogeneity of races, nationalities, languages, and backgrounds which characterize their membership. For example, in the steel strike of 1919, strike literature had to be issued in seven different languages! Racial friction between Negro and white continues to be a problem in labor unions, and may become increasingly serious if large-scale introduction of the mechanical cotton picker in the South produces a mass migration of Negroes to the northern industrial centers.

Because of this heterogeneity in membership, American unions have held their organizations together only by a tenuous bond. In contrast to European unions, where workers have been unified by a common nationality and, in some cases, by a common religion, American workers have been bound together primarily by a sense of mutual dependence in their

struggle to obtain better terms from employers. The extent to which organized labor as a group will be able to reconcile the conflicting interests represented by various elements in its membership and maintain its cohesiveness in the face of possible large-scale unemployment constitutes one of the most important economic and sociological problems of our time.

LEGAL ASPECTS OF LABOR PROBLEMS

Labor problems must be solved within a legal framework. This framework has two principal parts: (1) the common law, composed of the law which the colonists brought to this country from England and subsequent decisions handed down by American courts; and (2) state and federal legislation. These two aspects of the legal system impinge upon employer-employee relations in all their crucial aspects.

Organized Labor and Common Law

The common law has, on the whole, been hostile to organized labor. Courts have laid primary emphasis upon preservation of competition in the labor market and protection of the rights of private property and contract. In so doing, they have set difficult obstacles in the path of workingmen seeking to organize. For example, in the first American labor case, decided in Philadelphia in 1806, a combination of cordwainers (shoemakers) who organized to obtain higher wages from their employers was held to be a criminal conspiracy. Subsequent judicial decision, however, modified this extreme position. A strike was no longer considered a criminal offense but was viewed as *prima-facie* tortious (i.e., a civil wrong) since it was intended to inflict economic loss upon the employer. This presumption of illegality, however, could be rebutted by showing that the strike was for a justifiable end such as higher wages, shorter hours, or improved working conditions. Labor's right to strike, therefore, depended upon whether a court would consider justifiable the particular objective sought to be achieved by the strike. This doctrine still persists in our courts today. For example, a strike for a closed shop is regarded as unjustified and therefore unlawful in Massachusetts, whereas the contrary is true in New York State.

Judicial protection afforded contract rights has likewise impeded labor organization. Courts developed the doctrine that a person who was a party to a contract had a valuable property right which was entitled to protection. A court would issue an order enjoining any third party from interfering with such contract rights, and if the third party disobeyed the

order—or injunction, as it was called—he could be fined or imprisoned for contempt of court. This judge-made doctrine was the source of much difficulty to labor. Antiunion employers compelled workers to sign so-called “yellow-dog” contracts, whereby the employee, as a condition of obtaining employment, promised not to become a member of a union during his period of employment. When a union business agent endeavored to persuade the employee to join the union, he was in effect inducing the employee to break his contract with the employer. The courts held that such organizing efforts were unlawful and could be prohibited by injunction. Such yellow-dog contracts remained an effective weapon in the hands of antiunion employers for many years. They were finally outlawed in 1932 when the federal Norris–LaGuardia Anti-injunction Act made yellow-dog contracts unenforceable by injunction in federal courts.¹³

The strength of private property rights in our legal system has been another factor which has impeded the progress of organized labor. Strikes frequently involve violence and damage to private property. Consequently, employers have been able to secure police and court protection for their property, which incidentally often had the effect of breaking the strike. Frequently particular labor groups have found that because of their disregard for the rights of private property they have arrayed against them not only the courts but also the general public. For example, the sitdown strikes in 1937—in which striking workers barricaded themselves in factories and refused to leave the premises until their demands were met—evoked great alarm and opposition from the general public. Even persons ordinarily pro-labor viewed with alarm such arbitrary seizure of property belonging to others. Thus organized labor was deprived of an extremely effective labor weapon, not only by subsequent judicial decision which declared such strikes illegal but also by the hostile public reaction deriving from a long tradition of the sanctity of private property.

Labor Legislation

Labor legislation in the United States has proceeded in a rather haphazard fashion, due to the division of powers between state and federal governments. Federal regulation exists only in fragmentary fashion because the Constitution does not specifically authorize the federal government to regulate labor, and therefore federal regulation can be exercised only where labor problems impinge upon some field in which federal power is recognized—as, for example, interstate commerce. Since powers not expressly granted to the federal government are reserved to the states,

¹³ Yellow-dog contracts may still be enforceable in state courts in those states which have not enacted legislation modeled after the federal Norris–LaGuardia Act.

the primary regulation of labor activities is generally to be found in state statutes.

Collective bargaining relations of employers and employees in industries affecting interstate commerce have been regulated by the National Labor Relations (Wagner) and Labor-Management (Taft-Hartley) acts, which will be considered in detail in subsequent chapters. Other legislation—state or federal—provides unemployment insurance, public employment exchanges, prohibition of child labor, compensation for employees injured at work, and other benefits. In the field of wages and hours, legislation has provided minimum wages and maximum hours, thus narrowing the area of conflict between employers and employee, but except during the period of World War II and the Korean war, government has not attempted to fix the level of wages.

THE ECONOMIST AND LABOR PROBLEMS

Labor problems, we have already observed, depend upon one's point of view. The labor economist, like any economist, is primarily interested in economic problems and economic activity. He has therefore tended to concentrate his study on those aspects of the labor market which lend themselves to formulation in terms of "laws" or "principles" and to leave many of the human problems to specialists in other social sciences.

This emphasis was not always true of labor economics. Early economists were primarily historians. They studied the labor movement as an evolving institution and sought to explain its development in terms of economic and sociological environment and of the composition and psychological needs of the labor force. Then, as distribution theory in economics developed a highly sophisticated array of curves, equations, and theory to explain the functioning of economic markets, economists interested in labor sought to apply this same type of analysis to the study of the labor market. This approach was and is undoubtedly useful, but some labor economists tended to overemphasize this approach and to ignore psychological motives which affect the functioning of the labor market but which do not lend themselves to analysis in terms of geometry or differential calculus.

In recent years there has been an increasing tendency on the part of labor economists to give more attention to the role of psychological and sociological considerations in influencing behavior in the labor market. This broader approach is essential if the student of labor problems is to acquire a realistic view of labor problems. For example, it is very simple to draw a supply curve for labor indicating that at various possible wage

levels different numbers of workers will be available for jobs. But such a curve merely illustrates one force at work in the labor market—the effect of higher wages in drawing people to particular jobs. It cannot and does not give the full picture of the forces which motivate workers in the search for jobs. Workers want more than wages; they want security, self-expression, the opportunity to advance, pleasant surroundings. Moreover, the importance of these various considerations varies at different economic levels. For example, the lower the occupational rank of the worker, the greater the stress which he places upon security. The higher the occupational rank, the greater the emphasis which is placed upon social esteem, leadership, and interesting experience.¹⁴

THE CHANGING INSTITUTIONAL AND ECONOMIC BACKGROUND

Labor problems in our dynamic economy occur against an ever-changing background. The changes which have occurred in our economy in the last 100 years have left their imprint upon our labor market and have shaped and influenced our attitudes as well as our policies toward labor and industry. The setting for current labor problems reflects the following significant development in our recent economic history:

1. We have become a nation of employees. About four out of every five persons who work for a living do so by getting a job working for an employer. This change has come about over the last 100 years. Until shortly before the middle of the last century, the United States was primarily a community of self-employed. The principal occupation was farming, and most of our citizens were self-employed on such farms. The trend away from farming and toward the factory has reduced the number of self-employed in the labor force.

2. We are a country of small businesses, but large corporations control the bulk of our wealth and production. One hundred thirty-five corporations own 45 per cent of our industrial assets.¹⁵ Today 75 per cent of our companies employ fewer than four persons, and approximately 98 per cent have fewer than fifty employees. Most companies therefore are small. But the majority of employees work for large corporations. There are about 500,000 active corporations. In manufacturing, 10 per

¹⁴ R. Centers, "Motivational Aspects of Occupational Stratification," *Journal of Social Psychology*, Vol. XXVIII (November, 1948), pp. 187–218.

¹⁵ A. A. Berle, Jr., *The Twentieth Century Capitalist Revolution* (New York: Harcourt, Brace & Co. Inc., 1954), p. 25.

cent of the establishments employ 75 per cent of the workers.¹⁶ This 10 per cent is composed of large corporations employing a hundred or more workers. In 1900, corporations produced only about 65 per cent of manufacturing output in this country; but today corporations produce 90 per cent of the total.¹⁷

3. We are living in a unionized economy. In less than two decades since 1935 when the Wagner Act was enacted protecting the rights of workers to organize collectively, the percentage of the labor force which is unionized has more than tripled. Table 3 shows this remarkable growth in union membership. Moreover, since the data for the labor force includes the self-employed, proprietors, professional people, and those employed by their families, the unionized group is actually a much higher percentage of the potentially organizable group of workers than the statistics in Table 3 would indicate. It seems likely that today one out of every four persons who works for a living is a union member and one out of every three potentially organizable persons belongs to a union. No less than 40 per cent of the nonfarm labor force which is not self-employed are union members. In the manufacturing field, practically all of our key industries are strongly unionized.

These significant developments have had a profound effect upon the functioning of the labor market and upon the impact of labor problems upon the economy. At the turn of the century most employees worked for small enterprises which were managed by their owners. If an individual employee wanted a wage increase, he would see the "boss" about it, and if he didn't get it, he would quit—or he might be fired for being so presumptuous as to ask for it! Labor relations were individual and personal. Disputes when they occurred were for the most part local and of short duration. Employees had small resources and little bargaining power. Businessmen ran their businesses pretty much as they wanted without restriction from labor or regulation by government.

The situation today is so vastly different from conditions which existed in this earlier era that it is apparent that a revolution has occurred in labor-management relations. Today the individual employee and the individual owner are overshadowed by big unions and big corporations. Business today is owned by millions of small stockholders who have little voice in its day-to-day operation. Big corporations are staffed by "employees" all the way to the top. A new class has arisen in the social hier-

¹⁶ *Economic Almanac for 1951-1952* (New York: National Industrial Conference Board, Inc., 1951), p. 242.

¹⁷ U.S. Bureau of Labor Statistics, *Monthly Labor Review*, Vol. LXXI, No. 1 (July, 1950), p. 8.

TABLE 3

LABOR FORCE AND UNION MEMBERSHIP, SELECTED YEARS, 1890-1957

Year	Labor Force* (Millions)	Union Membership (Millions)	Percentage of Labor Force Unionized
1890.....	23.3	0.37	1.6
1900.....	29.1	0.87	3.0
1910.....	37.4	2.1	5.6
1920.....	42.4	5.1	12.0
1930.....	48.8	3.4	7.0
1935.....	50.5	3.9	7.7
1940.....	53.3	8.5	15.9
1946.....	60.8	15.0	24.7
1950.....	63.5	16.0	25.2
1953.....	65.5	16.5	25.2
1957.....	70.7	18.0	25.4

*Data prior to 1940 includes "gainfully occupied," a somewhat, but not significantly, wider term than "labor force"; also data prior to 1940 includes children 10-14 years old who are not included thereafter, but very few such children were found in the labor force by 1940.

SOURCES: *Labor Force*: Table 1. *Union Membership*: Leo Wolman, *Ebb and Flow in Trade Unionism* (New York: National Bureau of Economic Research, Inc., 1936), pp. 229 ff.; Florence Peterson, *American Labor Unions* (New York: Harper & Bros., 1945), p. 56; U.S. Bureau of Labor Statistics, *Monthly Labor Review*, Vol. LXXI, No. 1 (July, 1950), p. 11; U.S. Bureau of the Census, *Current Population Reports*, and U.S. Department of Labor estimates

archy—management—which owes its position not to birth, profession, or ownership but presumably to ability.¹⁸ This group bargains with the leaders of big unions to decide how much of the real income of the nation shall go to labor, to owners, to management, etc. Disputes over wage increases now result in walkouts of thousands of workers, which can bring a large part of the productive equipment of the nation to a standstill. Consumers and workers all over the country may be affected by the discharge of a shop steward in a steel company in Pittsburgh. Labor relations are no longer individual but aggregate. Decisions by management as to a wage adjustment normally involve not one worker but thousands. Moreover, the organization of employees into unions has so tipped the scales in the economic arena that in many industries unions are stronger in terms of wealth and economic strength than the companies with which they bargain.

This fundamental change in the setting of labor relations has made labor problems everybody's problems. Decisions made by management in the field of labor relations involve private property, but they have taken on social significance because of the wide area of their ultimate impact. Everyone has a stake in finding a solution to strikes which shut down our key industries and deprive us all—labor, management, and consumer alike—of the output of our factories. Our whole society has become more

¹⁸ Peter S. Drucker, "The Employee Society," *American Journal of Sociology*, Vol. LVIII, No. 4 (January, 1953), pp. 358 *et seq.*

interdependent and therefore more subject to disruption by the frictions which inevitably develop in our complex modern industrial system. This interdependence and the magnitude of the damage which can be wrought by the clash of big business and big unions has led many persons to turn to government regulation as the panacea for our problems. The scope of governmental regulation of labor relations and the role of government as an arbiter in this field will be discussed at a later point in this book. Suffice it to say that government control, whether it be effective or not, is a dangerous cure. It is no coincidence that in the countries behind the Iron Curtain, labor is controlled by the government, and employees have lost the right to strike. Free unions and free management are a bulwark of our democratic system. Government in a democracy may have to prescribe the "rules of the game," but it is important that the decisions in union-management controversies be made through free collective bargaining without dictation by government bureaucracy if our freedom to act and to choose is to be preserved.

ORGANIZED LABOR AND LABOR PROBLEMS

While much of the theoretical discussion in later chapters of this book concerning the labor market, supply and demand, and related considerations is applicable to the labor force as a whole, our major emphasis will be upon organized labor and the problems which arise between unions and management in the collective bargaining process. The reason for this emphasis is clear. While only about one out of every four workers is a member of a union, nevertheless union actions and union policies affect the working of the entire labor market. We have already noted that a relatively few large corporations control the bulk of our industrial assets and employ the majority of our workers. For the most part, these giants of industry are unionized. As a consequence, agreements reached by management and union representatives in these companies profoundly affect production, income, prices, and employment—in other words, the economic welfare of all our people. Moreover, because of leader-follower relations (which we shall discuss in a subsequent chapter), developments in unionized firms—whether they be wage increases, pension plans, paid vacations, or what have you—are taken up and copied by nonunion firms all over the country.

There would undoubtedly be labor problems without unions. For example, we experienced strikes, large wage increases, and a wage-price inflation in 1919 when unions were weak and industry was largely unorganized. But the fact remains that in our economy today the labor prob-

lems that make the headlines and which require our study are primarily problems in which unions play a key role. We shall, therefore, begin our study of labor problems by reviewing the history and development of organized labor in this country so as to better understand the motivations, objectives, and policies of organized labor.

QUESTIONS FOR DISCUSSION

1. Discuss the growth of the labor force in the United States since the beginning of this century. What changes has it undergone? What conditions brought about these changes? How do you think the composition of the labor force and its size relative to population will be affected in the next 50 years? Why?
2. Consider how psychology, sociology, and other social sciences could contribute to the understanding of the following current labor problems: strikes, shorter hours, and discrimination in employment.
3. Karl Marx predicted that the growth of capitalism produces an industrial proletariat, squeezes out the small businessman and shopkeeper, and therefore sets the stage for communist revolution. To what extent has the development of capitalism in the United States differed from this prediction?

SUGGESTIONS FOR FURTHER READING

HARDMAN, J. B. S., and NEUFELD, M. (eds.). *The House of Labor*, chaps. ii and iii. New York: Prentice-Hall, Inc., 1951.

A survey of the kind of people who are leaders and members of trade-unions.

✓ LAWSHE, C. H. *Psychology of Industrial Relations*. New York: McGraw-Hill Book Co., Inc., 1953.

A psychological approach to labor problems, with emphasis on what makes labor tick.

UNITED STATES DEPARTMENT OF LABOR. *The American Workers' Fact Book*. Washington, D.C., 1956.

An excellent source book for statistics on the labor force, its size, distribution, and characteristics.

PART II

Union History and Government

Chapter 2

HISTORY OF THE AMERICAN LABOR MOVEMENT

To an extent greater than labor unions in other countries, organized labor in America has retained confidence in economic action as a means of securing its ends. At a time when British trade-unionists have concentrated on electing labor governments, and when many European labor movements have become instruments of Communist Party power politics, American unions continue to stress the practical, less spectacular job of securing better wages and working conditions for their members within the framework of a free economy and a democratic government.

That does not mean that American unions are less dynamic than their European counterparts. In its struggle for "more, always more," American labor has given no quarter where no quarter was asked. Once bitterly opposed by business, American labor has fought back in kind, whether on the picket line or in the courts. But the fight, however bitter, and the bloodshed, however great, have been over the economic issues of union recognition, wages, hours, and other conditions of employment. To the radical, bewitched by the Socialist literature of nineteenth century Europe, which paints trade-unionism as the advance guard of revolution, American trade-unionism is incomprehensible.

Likewise, the fact that American unions have not been concerned with seizing the instruments of production or altering the forms of government does not mean that their activities do not bring about radical changes in methods of work or control of jobs; nor does it mean that the interests, aims, and policies of labor often do not run counter to those of other groups. Moreover, profound change has occurred as a result of the activities of American unions. Today, they affect in one way or another the allocation of economic resources, the sharing of the product of industry, political attitudes and alignments, employment and unemployment, legal rights and duties, material status, business stability, technical progress and the rate of innovation in industry, and the policies and atti-

tudes of government of all levels. Obviously, economic analysis must concern itself with union policy and practice if such analysis is to present a realistic picture of the modern business world.

THE CONDITIONS OF ORGANIZATION

Despite differences, all labor movements have certain common characteristics. Labor movements arise initially out of the separation of the worker from his tools. When a man becomes an employee instead of a self-employed person, he loses control over the terms and conditions of his employment. With the development of a factory system of labor and a concentration of ownership employing large numbers of workers, the individual finds his influence over working conditions steadily lessened. Under such conditions the worker quite naturally seeks increased bargaining power by joining with his fellow employees to make common demands on employers.

Looked at another way, we may say that workers tend to show interest in organizing unions when they feel that their immediate opportunities for advancement in the organizational hierarchy to the employer class are limited. The acceptance of unionism by a worker in a society like ours, with its relatively fluid class lines, does not mean that the worker will reject future opportunities to rise above the working group. It merely means that the worker believes that his present economic situation will be best served by union activity.

A fundamental condition for the existence of trade-unionism everywhere is the existence of civil liberties. Freedom of speech, press, and assembly must exist or be secured before unions can be organized and operated as free entities. The so-called "unions" which operate in dictatorial or totalitarian countries are, in fact, organs of the state, controlled and operated by the state, and lacking in power to act except to transmit state orders. We shall be concerned with unions in the traditional sense: organizations of workers which function primarily as the agent of employees in collective bargaining with employers or management over the terms and conditions of employment. Such unions may engage in a variety of supplementary activities. The essential point is their primary interest in collective bargaining and their freedom, subject to some legal limitations, to act unrestricted by state control or domination.

Once the initial conditions are met, labor organizations emerge among employees who have strategic market or technological positions. They have bargaining power which the employer must respect. They are workers possessing a hard-to-replace skill, e.g., toolmakers; or those lo-

cated at critical spots, e.g., teamsters or longshoremen. They may form a union solely of their own, or they may find it necessary or wise to bring in their less strategically located fellow employees. In any case, they are the essentials of unionization.

The speed with which a labor movement organizes is a product of economic and political conditions. American labor unions have made their greatest gains in periods of rising prices and labor shortages (1863-72, 1896-1904, 1917-20, and 1941-45) and in periods of political unrest (1827-36, 1881-86, and 1933-37). When prices were rising and labor was in short demand, union growth occurred because it enabled "wage earners to increase their wages to an extent more closely approximating the rise in prices. The individual worker joined unions to push up his wages; the tightness in the labor market and the general level of profits enabled the union to get results."¹

On the other hand, union growth during periods of political unrest has additional connotations, for it represents worker dissatisfaction with the economic system. In such periods, radical tendencies in unions become more prominent. Then failure of unions to achieve results along traditional lines can afford the opportunity for radicals to convert unions into instruments to push basic changes in the economic system.

THE AMERICAN ENVIRONMENT

If, however, the conditions of union organization and growth are similar in various lands, the environment is not; and it is the uniqueness of the American scene which has made American labor unions unique. America was settled by a wide variety of races and nationalities who inhabit a wide area rich in natural resources. The results have been an unparalleled high standard of living for the masses, great opportunities for individual advancement, a huge market for industry's products, an abundance of living space, racial and national rivalries, and relative freedom from legal restraint on business and labor. The effect on the American labor movement has been profound.

Class Fluidity

A fundamental characteristic of the American scene has been the comparative fluidity of classes. Penniless immigrants arriving in the United States have seen their sons become business executives, labor leaders, statesmen. In America, one is not born in a status. Although romantic

¹ J. T. Dunlop, "The Development of Labor Organization," in R. A. Lester and J. Shister (eds.), *Insights into Labor Issues* (New York: Macmillan Co., 1948), pp. 190-91.

"America First" writers have tended to overestimate actualities, the fact does remain that this has been and is the land of opportunity. Since class lines are not hard and fast, workers have been able to advance as individuals. American workers have, therefore, been less interested in trade-union organization. Indeed, it was not until the great depression of the 1930's that large numbers of workers decided that they needed unions at all.

America's loose class lines have not only hindered union development but have shaped unionism as well. In being interested primarily in improving labor's conditions within the capitalistic system, American unions reflect their members' basic belief that this is still the land of opportunity.

Resources and Land

The rich resources of America have, of course, aided in preventing the rise of hard class barriers by providing the opportunities for advancement. Moreover, the traditional "rugged individualism" of American employers stems from the same sources. In labor relations, employer "individualism" has featured opposition to government or union "interference" in the operation of business and the refusal to recognize unions of employees or collective bargaining until compelled by law. Needless to say, employer opposition seriously retarded the growth of unions, and today it still conditions attitudes in collective bargaining.

One of America's great resources has been abundance of land. The westward migrations drained off potential city proletariat. Although early writers perhaps overestimated the effect of free land, there can be no doubt that many workers went West to seek individual fortunes instead of remaining in the East and joining unions to seek group advancement.

Wide Markets

The size of the American market has been an important factor contributing to the growth of American unions. To protect the workers under its jurisdiction, a union cannot raise the price of labor too far beyond that which competitors of the company are paying. To put the matter in another way, a union must organize the length and breadth of the market. If the union fails to do this, nonunion plants, by paying lower wages, may take business away from the union plants and thus imperil the jobs of the union workers. In the 1830's a union did not have to organize much more than a city-wide market. Poor transportation made the city relatively immune from competition of other areas. Today, however, the market is more likely to be country-wide. The failure, for example, of unions to

organize the South places a limit on the wages they can win in the North. A union, therefore, must often become a national union of tremendous size in order to be a successful union in a national market.

The development of the national market not only stimulated national labor organization but paradoxically made that organization more difficult. In order to preserve the wage scale of unionized shops, unions usually must organize competitor shops. With a continental market, however, nonunion competitors can be a thousand miles apart. The resources which American unions require in order to organize an industry are thus very great, and their task more difficult as a result.

Moreover, the large American market permitted the breaking down of jobs into small specialized units of the mass-production process. Thousands of workers are employed in unskilled or semiskilled jobs, their efforts combining to perform a task done in smaller countries by a single skilled worker. Since the semiskilled and unskilled are easier to replace than the skilled, the bargaining power of labor was correspondingly reduced, and the ability of unions to compel a reluctant management to recognize their existence was considerably lessened.

Heterogeneous Population

Another factor hindering the development of labor organization has already been noted in Chapter 1—the many races and nationalities without common heritage, with rivalries, suspicions, and often without obvious mutuality of interests. Such heterogeneity presents a labor force which is much more difficult to weld into a labor movement than one in which the labor force is homogeneous in ethnic background and composition. To the natural suspicions has been added the tendency of American employers to play up these differences in order to prevent unionization. The policy of many factories in employing a “judicious mixture” of ethnic groups, or the practice of substituting a new wave of immigrants when an older wave showed signs of becoming restive with the status quo, kept these rivalries alive and made the task of the union organizer all the more difficult.

Social and Legal Background

Also, as stated in Chapter 1, the legal and social system in the United States, itself a result of the environmental factors of the American scene, has strongly conditioned American labor. The strong support of private property among the masses, the high esteem of businessmen in the population as a whole, and the consequent unpopularity among the dominant middle class of trade-unionism, which is often pictured as “antibusiness,”

have all helped to make the American labor movement difficult to build and antisocialistic (pro-private property) in order to exist.

THE BEGINNINGS, 1790–1825²

Records of local labor unions and of strikes antedate the Revolutionary War, but labor organizations in colonial times were very short-lived. Commencing in the 1790's, however, came the first-known unions which survived for a number of years—shoemakers, carpenters, printers, bakers, and tailors formed organizations of their crafts. Sometimes organization was defensive against the merchant-capitalist, a new functionary who bought and sold in large quantities over wide areas and therefore broadened the scope of competition. This often either compelled master craftsmen to discontinue independent work and hire out as journeymen or else forced the master to reduce the wages of his journeymen. On other occasions, organization was spurred by the shortage of skilled labor and the desires of craftsmen to take advantage of the demand for their services.

These early unions were composed entirely of skilled or strategically located (teamsters, longshoremen) workers. In fact, throughout history, this group has always been the first to organize. Those who by reason of skill or strategic location can exert pressure or inflict a loss by withdrawing their services, possess the ability to secure employer recognition long before their less favorably placed fellow workers.

Early unions did not engage in collective bargaining as we know it today. Customarily, the union "posted its prices," i.e., announced the wages and working conditions for which its members would work. If the employer refused to agree, a strike would ensue, and perhaps a compromise would be worked out. Only slowly did the custom develop of joint employer-employee conferences at which bargaining occurred prior to direct union action. Even in the later part of the nineteenth century when collective bargaining as we know it today was well under way, unilateral union posting of wage schedules was not uncommon.

The Conspiracy Doctrine

Early unions were not received with complacency by employers. The

² Although the authors accept full responsibility for interpretations, they have frankly based the historical section on secondary sources, including the pioneer works of John R. Commons and his associates, R. F. Hoxie, and Norman J. Ware, but especially on the admirable synthesis of Professor Royal E. Montgomery—H. A. Millis and R. E. Montgomery, *Organized Labor* (New York: McGraw-Hill Book Co., Inc., 1945), pp. 1–242. The lack of detailed documentation is for reader convenience and is not intended to understress our great debt to these authors.

latter found a firm ally in the judiciary, which throughout the nineteenth century stood firmly with the well-to-do class from which its members were recruited. The ancient doctrine of conspiracy was brought out and applied to "labor combinations in restraint of trade." Although "there was nothing unlawful in combination itself, nothing unlawful in an individual's refusal to work, and nothing unlawful in a workman's desire to obtain better standards of employment,"³ the early judges found it all added up to a conspiracy. Thus in the famous Philadelphia Cordwainers' case,⁴ the learned judge declared: "A combination of workmen to raise their wages may be considered in a two-fold point of view: one is to benefit themselves . . . the other is to injure those who do not join the [combination]. . . . The rule of law condemns both. . . ." Hence the workers were jailed and fined.

The judges were reasoning from their socioeconomic point of view. They regarded unions as a threat to the status quo of society of which they were a part. As time wore on, however, more reasoned justice asserted itself. It was thus not surprising that in 1842 the Massachusetts Supreme Court dealt the criminal conspiracy doctrine a mortal blow by ruling in effect that the legality of a strike depended upon the end sought, and that mere purpose of requiring all workers to join a union (closed shop) was not per se illegal.⁵

CITY-WIDE MOVEMENTS, 1825-37

Andrew Jackson rode into the presidency on a wave of agrarian and urban revolt against that era's prevailing economic and political inequalities between different classes. Most rankling to the urban wage earner was the length of the workday (sunup to sundown), imprisonment for debt, compulsory militia service from which the rich could buy excuse, absence of mechanics' lien laws to protect workers in case of employer bankruptcy, property qualifications for voting, and lack of free educational system.

Workers in New York, Philadelphia, and other seaboard centers attempted to cope with these problems through their unions. The battle was fought both by direct economic action and by political action. The former technique was utilized to improve wages and working conditions, especially by reducing hours to a straight ten per day.

³ C. O. Gregory, *Labor and the Law* (New York: W. W. Norton & Co., Inc., 1946), p. 19.

⁴ An 1806 case. Cordwainers were shoemakers, originally those who worked on cordovan leather.

⁵ *Commonwealth v. Hunt*, Mass (1842), 4 Metcalf 111.

Politics and Federation

It was in the political field, however, that the unions of this period made their most spectacular efforts. Workingmen's parties were formed in New York, Philadelphia, and other centers; and, particularly in the two largest cities, they held the balance of power between the Federalists and the Democrats for several years. One congressman, Ely Moore, was elected by the workingmen's party in New York. In addition, a number of state and city officials were elected by that party in the New York and Philadelphia areas. More important, however, was the effect on the Democrats. Anxious to secure the workers' votes, New York's Tammany Hall adopted the basic workers' program—free public education, universal suffrage, and mechanics' lien laws were adopted or strengthened, and compulsory militia service for poor only commenced to disappear. By 1834 the workingmen's parties had folded, but their imprint remained.

There were some attempts at federation during this period. The local unions in the cities formed central trades organizations to co-ordinate their activities, and some attempts were made to consolidate them into a national organization. A National Trades Union was formed in 1834, but it lasted less than 5 years. It did successfully agitate for the establishment of the 10-hour day in government employment. The workers' problems were primarily local, however, and they were unwilling to cede authority to a national body. The same factor hindered the establishment of national craft unions, although at least five crafts attempted to form national unions in the 1830's.

A feature of the labor movement in these early years was the prominent role played by intellectuals. Robert Dale Owen, son of the English industrialist-philanthropist; Frances Wright, our first women's suffragist; and the brilliant pamphleteer, Thomas Skidmore, all left their imprint on the labor movement, and all saw their programs promoted at one time or another by the unions. As the unions grew, however, a gulf between the practical needs of workers and the Utopian dreams of reformers developed.

In 1834 the intellectuals' hopes received a substantial setback when the unions squelched the attempts of the intelligentsia to turn the National Trades Union primarily into a political convention. In 1837 the financial panic and ensuing depression wiped out almost every form of union then existing. Never again did the labor movement accept without question or qualification the intellectuals' pronouncements as to labor's manifest destiny. Nor should this be surprising. For throughout history, the intellectual who attaches himself to the labor movement has all too

often attempted to convert unions into either likenesses of his idealism or vehicles for his reformist dreams, whereas union members and leaders are primarily interested in the more prosaic, but necessary, day-to-day business of improving wages and working conditions.

REFORMISM AND CO-OPERATION TO NATIONAL ORGANIZATION, 1840-67

The depression which began in 1837 was one of the severest in American history. The ranks of unions thinned out and disappeared in the face of mass unemployment. The experience and records of 20 years were lost, and the labor movement had to start anew. The decade of the 1840's saw the formation of many new unions, but too frequently their interests were diverted toward reformist programs which were often more well-meaning than practical. The spokesmen of various brands of socialism, land reform, consumer and producer co-operation, farmer-labor parties or political action, the 8-hour day, and free land all attempted to win labor's support.

Adherents of co-operation were especially prominent in this era. The thesis that labor's problems can be solved by placing the ownership of the means of production into the hands of the worker and then having the worker take his share in profits has always had a great appeal to reformers of every era. But in the 1840's, as before and later, attempts at co-operation ran into difficulties. Workers found that it takes more than work to run a business. There are problems of organization, problems of sales, problems of finance, among others. A skilled craftsman is not necessarily an organization man, a salesman, or a financier. Budding co-operatives too often lacked these technical necessities.

More important, however, the co-operative movement could not deliver enough to the worker "here and now" to gain support for survival. Often the co-operative could not supply better conditions of employment than the capitalist, and all too frequently the co-operative could not even produce the goods as cheaply. Consequently, it was the practical trade-unionist who won out. He alone could deliver something more substantial than the promised millennium to cope with the problems of wage earners—problems made more severe by the commencement of the "American Industrial Revolution." For it was about 1840 that the use of anthracite coal stimulated the rise of the steel industry; that railroad development began; and that increased industrialization and urbanization went forward rapidly. This decade also saw rapid increases in population, wealth,

and prices, and a consequent increased demarcation between the property holders and the propertyless.

Unionism of this time was confined to the skilled, but it was vigorous and firmly rooted. Beginning in 1852 with the founding of the International Typographical Union,⁶ during the following two decades at least a dozen organizations were formed which survive to this day. The Civil War, separating North from South, and dislocating industry and the economy, at first seriously set back the new unions; later, however, by creating a shortage of labor and stimulating industry, it fed union growth. By 1867 the union movement was ready for a serious attempt at national federation. The result was the National Labor Union, founded in that year.

Knowing nothing of the early struggles of labor for freedom from political domination, and beset by the problems of rapid post-Civil War industrialization, the union founders of the National Labor Union permitted political as well as labor organizations to affiliate. When, moreover, the organization's propaganda led to the adoption of the 8-hour day in federal employment within 1 year, a naïve faith in political action, often since reiterated, developed. Other panaceas or reform objectives, however, failed of attainment. States did not, as hoped, pass 8-hour laws; producer co-operation or worker ownership of industry failed to materialize; and "cheap money" or the Greenback movement brought no success to worker aspirations. Slowly, the unions dropped out, and the National Labor Union became purely political, until in 1872 it became defunct.

THE KNIGHTS OF LABOR

Even before the National Labor Union was engulfed by politics, seven tailors met in Philadelphia determined to found an organization which would transcend the narrow limits of craft unionism and unite all workers under one banner, regardless of race, sex, nationality, or creed. Thus was created the Noble Order of the Knights of Labor, which as a secret society spread slowly through industrialized Pennsylvania.

Gradually, the secrecy became a liability. Secret organizations were in ill-repute in Pennsylvania as a result of the activities of the Molly Maguires, a terroristic group which attempted to achieve social justice by murdering company officials. The Molly's were uncovered by a Pinkerton detective, who managed to become a Molly official and thus achieve fame as the first in a long line of labor spies. Several Molly officials were

⁶ Unions are called "International" in the United States because they have locals in Canada.

hanged for murder, but a question remains as to whether the real culprits were punished.

The Knights' secrecy was formally abolished in 1879 when Terence V. Powderly became the "Grand Master Workman." He insisted that this be done so that the official approval of the Catholic Church could be secured for the new organization. Thereafter the Knights grew rapidly.

The Knights of Labor was an interesting cross between a union and an uplift society. It attempted to weld together all elements of the working classes, and to do so it permitted craft unions to affiliate directly with its "general assembly" (national organization) and also organized "mixed assemblies," i.e., local organizations composed of a variety of workers organized on either an industrial or a heterogeneous basis.⁷ Its program stressed political reform and was closely allied with the agrarian revolt of this period which is known as the "Great Upheaval." T. V. Powderly, for many years leader of the Knights, was a kindly, friendly Irishman who had a keen sense of social justice, a yearning for a better life, and firm belief in the common virtues and the American system of private property. Some of his allies, however, were more radical, and they gave the Knights its tone; for local autonomy ruled under the Knights' bylaws. This fact, coupled with the lack of experience of the membership, was a big factor in the rapid rise and fall of the organization.

The Knights of Labor reached its apex in 1886 after a strike on the Wabash, Missouri-Kansas-Texas, and Missouri Pacific railroads had forced Jay Gould, the financier who controlled these railroads, to grant recognition. From 100,000 the previous year, the Knights' membership rose to 700,000. Members came in so fast that it was necessary for the central office to suspend organizing to assure that no lawyers, bankers, gamblers, liquor dealers, or Pinkerton detectives, the only barred groups, would join the Knights.

The decline of the Knights was as rapid as its ascent. Losses in a number of strikes, including defeat in a second Missouri Pacific walk-out, and the separation of the skilled men into a rival organization, later known as the American Federation of Labor, turned the tide. In 1888 the Knights claimed only 222,000 members; in 1890, 100,000; and in 1893, but 75,000. From then till their official dissolution 20 years later, their central office was engaged primarily in reform propaganda, often allied with the agrarian greenback and populist parties.

⁷ An industrial union includes all workers in a plant, industry, or industries regardless of craft or trade; whereas a craft union includes workers of one craft or trade regardless of the plant or industry in which they are employed. Heterogeneous unions are those which take membership on any basis.

The structure and program of the Knights was ill-suited to the job of running a labor organization. Local organizations, known as "Assemblies," often took in all comers, regardless of job or place of employment. The assumption was that all workers had the same interest, and on this assumption the leadership of the Knights spent much of their energy, enthusiasm, and financial resources promoting producer co-operation and such various monetary proposals such as Greenbackism and Bryan's free-silver program. Meanwhile, day-to-day needs of wages and working conditions, and especially organization building, were neglected.

The conflict between broad, long-range objectives and immediate problems was accentuated by conflicts between local and national officers. Being on the firing line the local officers were more interested in the immediate; they wanted the Knights to concentrate on immediate objectives. Moreover, whereas the national officers of the Knights were quite hesitant to call (if not actually fearful of) strikes, some important local officials were quite quick on the strike trigger. In a number of cases, conflicting orders and actions resulting from conflicts between local and national officers helped to lose strikes and to alienate members.

The membership of the Knights was very unstable. It was composed mainly of unskilled workers who flocked in and out so fast that it was once described as a "procession instead of an organization." These workers, being totally inexperienced in unionism, were great strikers but poor union members. Eager to join in a strike, the inexperienced masses disappeared from the organization as soon as a conflict was finished. Some flocked in when the Knights won a strike; more were scared away when a strike was lost. At first the skilled craftsmen and their unions were attracted to the Knights; but the ineffectiveness of the Knights in the day-to-day bread-and-butter unionism led the craftsmen to bow out and seek an organization suited to their special needs and ambitions.

THE RISE OF THE AMERICAN FEDERATION OF LABOR

While the Knights of Labor was achieving its great boom, a group of trade-union leaders met in 1881 and formed what was first called the Federation of Organized Trades and Labor Unions and then, after 1886, the American Federation of Labor (AFL). Led by Samuel Gompers and Adolph Strasser of the Cigarmakers' International Union, this group was composed primarily of representatives of the skilled trades who not only did not desire to be submerged in the mass movement of the Knights of Labor but who feared that the net result of the Knights' activities would be the destruction of trade-unionism as they conceived it. These trade-

unionists felt that the mass movement of the Knights of Labor was doomed to failure; that trade-unionism could best succeed if confined to those who were able to organize themselves, in other words, to skilled or strategically located groups; and that trade-unionism should confine itself to the immediate issues of improving workers' wages and working conditions rather than to work for a Socialist Utopia, or to get entangled with other political movements or "uplift" campaigns.

The philosophy of the AFL leaders was thus a pragmatic one, grounded firmly in the principles of American capitalism. They were out to improve the conditions of those whom they represented, and they represented the skilled workers or workers who, because of their strategic location, had bargaining power sufficient to command employer recognition. To the great mass of workers they said in effect: "Organizing will help you, but until you are ready for organization, we can best aid you by pulling up our wages and thus indirectly influencing yours to rise also."

Samuel Gompers

Samuel Gompers and his fellow founders of the AFL did not come to their conclusions concerning the type of labor movement that could prosper in America without patient study and experience. Gompers was a self-educated man. The son of Dutch-Jewish immigrants, he was brought to this country as a child, and as a youngster he went to work in the slum tenement cigar factories in New York. Early in his working career he became acquainted with the German Socialists, mainly refugees from the unsuccessful European revolution of 1848. Through them he became familiar with the writings of Marx and the other literature of socialism. Often the cigarmakers worked in groups of ten or fifteen with one of the workers spending the entire day reading to the rest and the other workers making up his wages out of their own. At the same time, Gompers took an active role in the developing Cigarmakers' Union, and thus he acquired the practical experience of trade-unionists.

Although sympathetic with the aims of socialism, Gompers and his fellow trade-unionists were thoroughly convinced that a labor movement founded as an arm of the Socialist Party, or even espousing Socialist principles, could not survive in America. Gompers saw clearly that any organization which made a frontal attack on private property would alienate the dominant American middle classes and would find little support even amongst employees, who were less class conscious and more interested in getting ahead as individuals than any of the European Socialists had been able to comprehend. Accordingly, the program of the American Federa-

tion of Labor was geared to the requirements of the American scene. It succeeded where other movements had failed.

During the first years of the AFL, growth was slow but steady. As the Knights of Labor declined, the Federation forged ahead. Socialists made attempts to convert the AFL into an appendage of their organization. In one year, 1894, they did succeed in defeating Gompers for the presidency. They were unable, however, to place their man at the helm for more than one year, and Gompers was returned to office which he held every year thereafter until he died in 1924. Later the Socialists changed their program and attempted to form a rival organization known as the Socialist Trade and Labor Alliance. This organization failed, however, to gain a mass following, consisting mainly of hard-working pamphleteers and rigid doctrinarians in New York City.

In order to insure control of the AFL by national unions, Gompers was careful to reject affiliation offers by political groups. The constitution of the AFL maintained the national unions as autonomous organizations each with exclusive jurisdictional rights in its territories. An executive committee, composed at various times of five to fifteen persons, elected from affiliated national unions, plus a full-time president and secretary, governed the Federation between annual conventions. Representation in the AFL conventions was based on dues-paying membership. A combination of a few larger unions could thus control the AFL. The president's office had little authority. By leadership, force of personality, and an astute sense of politics, Gompers gave the AFL presidency vitality and power until his later and less vigorous years.

AFL Philosophy

The American Federation of Labor, as the true counterpart of American capitalism, has traditionally opposed government intervention in industrial relations matters. Samuel Gompers and business exponents of *laissez faire* were one in their belief that the government should confine its role in labor relations to policing and the maintenance of order and should not interfere in industrial relations matters or in the internal affairs of labor or business. Thus, Gompers opposed government intervention in labor disputes even to the extent of opposing government facilities for mediation and voluntary arbitration,⁸ foreseeing that such intervention might lead to compulsory arbitration. Moreover, he wanted no part

⁸ Mediation or conciliation is the process whereby a third party attempts to secure settlement by persuasion and compromise. Arbitration involves the use of a third party to decide a dispute.

of government assistance in union organization. He did not think the government should outlaw discrimination against workers because of union membership, believing that such government aid would lead to government control.⁹

In social welfare matters, Gompers was likewise opposed to government intervention. No less than businessmen, he was against a government minimum wage for men and against government unemployment insurance and other forms of governmental social security. He believed that such welfare programs would weaken democracy by making citizens too dependent upon the state; that a minimum wage would tend to become a maximum and thus limit union action; and that minimum wages, unemployment insurance, and other social security measures could best be provided by the workers themselves through trade-unions. The only exception to this rule, he felt, was maximum hours and minimum wage legislation for women and children, and for government employees. These groups had little bargaining power and were therefore, he felt, in need of special government protection.

The Injunction and the Yellow-Dog Contract

Of all the forms of government intervention, few have been resented by the labor as bitterly as the "injunction." The injunction became prominent in labor disputes in the latter half of the nineteenth century. It was carried over into labor relations from the common law where it was devised to grant continuing relief where damages would not suffice to remedy a continuing harm. For example, if a farmer who depended upon a brook for water observed his neighbor upstream damming up that brook, he might, under certain conditions, go to court, present a bill to a judge, and, without prior notice to the neighbor, secure a temporary injunction requiring him to cease work on the dam, to maintain the status quo, and to appear in court in a given period, usually a week or 10 days, to show cause why the injunction should not be made permanent. At the hearing both parties then would have the right to plead before the judge as to what his course of action should be. The judge would then render an opinion, either dissolving the injunction or making it permanent. In any case, any party who fails to comply with an injunction, whether temporary or permanent, is in contempt of court and subject to penalties which the judge may impose without trial by jury.

Employers soon saw in the injunction an ideal weapon to curb the

⁹ That this was no idle fear is evident. Twelve years after the pro-union Wagner Act was passed, Congress enacted the Taft-Hartley law, which has definite union-control features.

activities of labor unions. An employer who felt that a strike was impending could scurry to a judge with a complaint and rather easily secure an injunction requiring the union to stay any action on the grounds that grave damages would befall the employer. In the intervening time the employer could fire union members and otherwise undermine the organization so that by the time the hearing was held the question whether the injunction was to be made permanent or to be dissolved was irrelevant. Judges sometimes showed a ready disposition to grant injunctions on the flimsiest requests.

To supplement the injunction, a legal technique was developed which was soon termed by organized labor, and is now known generally, as the "yellow-dog contract." This is an agreement between an employer and a worker whereby as a condition of employment the worker agrees not to join the union. Unionists maintained that this was not a legal contract since the worker was coerced into signing it. The courts of New York State upheld this contention by refusing to enforce it, but the federal courts and those in most other states maintained that the mere fact of inequality of bargaining power did not necessarily render a contract unenforceable. Thus, if an employer had signed up his workers to yellow-dog contracts, he might get an injunction requiring the union organizer to cease attempting to induce the employees to break their legal contracts! This was truly an effective antiunion device.

The climax of government by judiciary came when the Supreme Court ruled that the Sherman Antitrust law, enacted in 1890 to curb cases of business combination, was applicable also to labor combinations and that employees who had instituted a nation-wide boycott against a hat manufacturer could be successfully sued for the treble damages provided in the law.

This was the background which led to the 40-year AFL campaign to end government by judiciary and to neutralize the courts. Gompers appealed to Congress to take action in this regard. He argued that he was not abandoning the principle of neutral government or "voluntarism" but rather that he was asking Congress to implement it; for the courts in his opinion were firmly on the side of the employer. In 1914 when Congress passed the Clayton Act, which Gompers thought removed unions from the jurisdiction of the antitrust laws, he believed that he had won his aim; but the courts whittled away this law by interpretation. It was not until 1932 with the passage of the Norris-LaGuardia Act that the AFL's great legislative drive achieved fruition—only to be partially annulled 15 years later with the passage of the Taft-Hartley Act of 1947.

Industrial Relations, 1880-1914

The years of the great upheaval were also years which saw the first attempts at modern collective bargaining. National agreements negotiated in the stove, glass, and pottery industries, the beginning of regional collective bargaining in the bituminous coal industry, a large number of agreements in the building and printing trades, all showed promise of a conciliatory tone in industrial relations between labor and management. Under the leadership of John Mitchell, president of the United Mine Workers and one-time Gompers "heir apparent," the anthracite coal industry was organized and a working agreement achieved after two long strikes and federal intervention in the form of a fact-finding commission had forced the hard-boiled operators to negotiate.¹⁰

In the 1890's, also, industrialists and bankers under the leadership of Mark Hanna, President McKinley's campaign manager and later a senator from Ohio, joined with Gompers and other AFL leaders in founding the National Civic Federation. This body sought agreement between labor and industry on broad principles, promoted collective bargaining contracts, and maintained voluntary machinery for mediation and arbitration of labor disputes. By promoting collective bargaining, the Civic Federation aided the immediate interests of the AFL. It frowned, however, on aggressive unionism. Since the latter was needed to organize the unorganized, unskilled masses, the Civic Federation's influence was more friendly to established unions than to union growth.

If, however, the AFL has established a beachhead in industry through agreements and "class collaboration" in the Civic Federation, it found no warm welcome on industry's shores. This was especially true in the new mass-production industries. Andrew Carnegie, rising genius of the steel industry, had at one time been anxious to deal with the Amalgamated Association of Iron, Steel and Tin Workers. He reasoned that by encouraging the union, he would encourage stability of prices, and since he figured he could outsell his competitors if he held them to equal costs, he promoted unionism to promote sales.

As Carnegie grew in the industry, however, his love for unionism declined. In 1889, he dealt the Amalgamated Association a terrific blow when he ousted it from his Homestead plant (near Pittsburgh, Pennsylv-

¹⁰ Among them was George M. Baer, president of the Philadelphia and Reading Company, who immortalized himself with this statement: "The rights and interests of the laboring man will be protected and cared for not by labor agitators but by Christian men to whom God in his infinite wisdom has given control of the property interests of the country."

vania) in a bloody strike. The course of unionism in steel from then on was downward, and as steel went, so went unionism in mass production. The United States Steel Corporation, which was formed in 1901, principally by Carnegie and Morgan interests under the latter's domination, refused to recognize the steel union, defeated it in its attempt to force recognition by a strike, and then gradually eliminated it from the plants where it had already been recognized. Mass-production industries which grew up between 1900 and 1933 followed the lead of the steel corporation. Detroit, the automobile capital; Akron, the center of rubber products; the Pittsburgh-Ohio Valley steel center; Chicago, the heart of the meat-packing combines; all kept unionism from their gates except for the briefest of periods during World War I, and other industries followed their lead.

As their spokesman, the antiunion interests found the National Association of Manufacturers an excellent crusader. Under the leadership of D. M. Parry and James Kirby, Jr., the NAM began an all-out attack on the "closed shop," proclaiming the open shop the American way, if not God's own way. To the NAM the open shop meant the elimination of trade-unionism. Between 1900 and 1914 the American Federation of Labor was on the defensive. It held its own in industries in which workers had strong bargaining power, such as building, printing, glass, stove foundries, and to some extent bituminous coal mining; and its membership increased to 2,000,000 by 1914. Nevertheless, it failed to keep pace with our growing industrial economy. Even in those industries such as glass, where it had a firm foothold, the AFL unions were confined largely to the skilled employees. Coal mining was one of the few union strongholds among semiskilled and unskilled employees.

The effect of the NAM drive was both swift and long-lasting. In 1901 the National Metal Trades Association, which one year before had entered into a national agreement with the International Association of Machinists, broke off relations and continued its nonunion policy for nearly 40 years thereafter; in 1904 the National Founders' Association broke off its relations with the International Molders Union; and in 1905 the National Erectors Association and the Bridge and Structural Iron Workers Union broke off relations. The employer who maintained union relations was termed a "traitor to his class"; and the "moral duty" of the employer to defend the worker's "right to work" was emphasized as the basic cause of the employer opposition to unions.

The antiunion drive of the NAM and its allies served to give most of the new large corporations formed at the turn of the century the opportunity to utilize labor without restraint from unions. The worker who

did not like his treatment, or who rebelled, could look elsewhere for a job; that was his only recourse against the power of the giant corporation. But perhaps more important from the long-run point of view is the fact that the all-out antiunion drive significantly, and it would appear permanently, affected unionism in the smaller communities and in the rural areas. Union membership in small communities was virtually liquidated. The antiunion temper of agricultural areas, still obvious 50 years later, was carefully nurtured and given direction by the open-shop propaganda of the early years of this century.

Thus, at a time when employers in other democratic countries, e.g., England and Sweden, had decided to accept collective bargaining, the leaders of American industry declared war on a conservative, pro-capitalistic, pro-private property labor movement. The fruits of this war are with us to this day in the suspicion, belligerency, and lack of good faith which characterizes much of modern industrial relations.

To be sure, many employers had good cause to reject unionism around 1900. The history of industrial relations provides many examples of unions during 1880–1900 refusing to sign written agreements, adhering to “quickie” strikes, and placing restrictive rules on expanding industries. Industry, however, had the opportunity to work out an understanding with the AFL, but the fight-unionism program of the National Association of Manufacturers prevailed over the co-operative program of the National Civic Federation.

The IWW

To American radicals at the turn of the century, the success of the antiunion crusade and the support which it elicited from the general public were evidence that “narrow” dollars-and-cents unionism of the AFL type could not succeed in working out a compromise with the capitalistic system. At the same time the failure of the AFL to interest itself in the needs of the unskilled workers and the workers in such frontier industries as metal mining and logging and lumber drove these groups to seek a solution of their problems outside the AFL’s orbit. The metal miners, who for a time had affiliated with the AFL, took their union, the Western Federation of Miners, out of the AFL in 1897. Lack of success in their own fierce labor struggles and an increased radical bent within the organization and among its leaders led the Western Federation of Miners and its allies from the West to make common cause with eastern radicals and the Socialist Trade and Labor Alliance, and with representatives of various dissident AFL locals. In June, 1905, these groups launched the Industrial Workers of the World.

From the start, the IWW was rocked with dissension. The direct-action, nontheoretical westerners, who represented the only group with a sizable membership, soon split with the theoretical Socialists from the East; and by 1908 the latter were eliminated from the organization. From then on, the IWW was truly the representative of the unskilled masses, intervening in strike situations or leading strikes of harvest workers, logging and lumber mill employees, longshoremen, or wherever a labor upheaval occurred. The IWW befriended the newly arrived immigrant worker, carried on "free speech" campaigns where the right of speech and association was denied, and generally acted, often very effectively, as the champion of the underdog whom no one else would champion.

The IWW was the champion of the unskilled, but it never built an organization for them. It would not sign agreements. Agreements to the IWW were a form of capitalistic enslavement. As an organization frankly dedicated to the overthrow of the capitalistic system, the IWW depended on mass action used directly and without restraint. The radicalism of the IWW was straightforward and direct. It hid nothing and apologized to no one for its anticapitalistic views.

The bloody battles of the IWW, the attempts to suppress it, the denial of civil liberties, and the reply of the IWW to force in kind have been told in numerous places and need not be repeated here. Of major importance, however, is the fact that the IWW never built a trade-union movement as such. Its organizers were agitators who either stirred up trouble or took charge of trouble when it broke out. They often performed yeoman service in securing better wages, hours, and working conditions in particular situations. Once, however, their initial objectives were secured or lost, the IWW leaders were off to another trouble spot leaving the local organization to wither away. The press built up the "wobblies" as a tremendous organization. Their strength was more carefully appraised by a scholarly observer of the labor movement after he had witnessed their 1913 convention:

The first significant fact revealed by this convention, and by the whole history of the IWW as well, is that this body, which claims as its mission the organization of the whole working class for the overthrow of capitalism, is pathetically weak in effective membership and has failed utterly in its efforts to attach to itself permanently a considerable body of men representative of any section of American workers.¹¹

¹¹ R. F. Hoxie, *Trade Unionism in the United States* (New York: D. Appleton-Century-Crofts Co., Inc., 1924), p. 139.

IWW leaders energetically opposed the American entrance into World War I and preached sabotage to prevent it. As a result, many of the leaders were indicted, the organization proscribed, and what was left of the membership was pretty thoroughly broken up by the post-World War I red witch hunts of the then United States Attorney General, Palmer Mitchell, who hoped thus to scare his way into a presidential nomination.

WORLD WAR I TO THE GREAT DEPRESSION

The "New Freedom" of the Wilson administration promised organized labor many gains. One of these was the Clayton Act to restrain labor injunctions, which Gompers hailed as the Magna Charta of labor only to find that the Supreme Court thought otherwise. As the war approached, the Wilson administration became more and more solicitous of labor support. Gompers, who at first had demonstrated a vigorous antiwar philosophy, soon was preaching for Wilson preparedness. A threatened strike by the four railroad brotherhoods for an 8-hour day was averted when President Wilson secured the passage of the Adamson Act guaranteeing the 8-hour day without loss of pay from the previous 10 hours to all operating employees of railroads (hence, not extending the benefits to the still unorganized nonoperating group). As war neared, tripartite, public-labor-industry labor relations boards were established in critical industries, and the AFL was given official recognition as a representative of labor. In return, the Federation put aside voluntarism and co-operated thoroughly with government.

When war finally broke out, President Wilson called together representatives of labor and industry; and they hammered out an agreement providing, among other things, the establishment of a tripartite National War Labor Board, an agreement guaranteeing the right of organization, and providing for a freeze on the closed-shop issue which stated that open shops were to remain open and closed shops closed for the duration. Aided by the shortage of labor, the official recognition by government, and a truce with industry, organized labor's ranks shot up to 5,500,000, which proved to be the highest membership figure prior to 1935.

World War I was followed by serious industrial strife. The nation had a coal strike in 1919 and an industry-wide steel strike (which was mainly a demand for the end of the 12-hour day in blast furnaces and for recognition of the union). The strike was put down by the industry with considerable force after being portrayed as a "red menace" to the country. Serious stoppages also occurred in other industries such as meat packing,

with the result that similar to another postwar year, 1946, the year 1919 was one of the costliest in terms of per capita days lost from work because of strikes.

The year 1919 was also an inflationary year with prices soaring, which, of course, was one of the serious reasons for labor discontent. High prices continued into 1920 and then broke, and the country experienced a short but serious depression. Labor's gains of the war fell away as war industries closed and unemployment set in. Industry took the offensive with the "American plan," a dressed-up version of the open shop—dressed up by the first ingredients of personnel administration.

Company Unions

During the war American industry had realized the high cost of hit-or-miss personnel policies. Industry became concerned for the first time over high labor turnover, foreman training, scientific salary administration, and the other elements which Frederick Taylor had been preaching for 30 years. Moreover, the public was demanding more democracy in industry, and the more forward-looking industrialists saw that they must have something to meet the trade-union challenge besides the famous remark attributed to the chairman of the United States Steel Corporation: "We do not deal with unions as such."

Out of this developed many elaborate schemes of employer representation and company unions. They were often deficient in many ways. Certainly, in the last analysis, the company union cannot give the worker the bargaining power to stand up and fight for an enlargement of his share, since it ultimately owes its strength to company toleration. Nevertheless, it must not be forgotten that during the 1920's it was the forward-looking, liberal employer who sponsored the company unions and the employee-representation plans. The rest of the employers did not permit even such organization of their workers. Moreover, company unions played a valuable role in training future union leaders, in teaching employees to discuss their rights, to learn about business, and quite unintentionally to realize the importance of company unions as bargaining agents—the last, only after depression destroyed the prosperity of the 1920's.

The AFL Decays

American trade-unionism was in a state of decadence during the 1920's, despite the fact that 30 years later the AFL was still led by some of the leaders who were prominent during the 1920's. Some of them were old in spirit and unreceptive to new ideas by 1920. The Federation was

unwilling and unprepared to organize the great mass of employees. As technological and mass-production methods reduced skills and converted jobs into semiskilled operations, the AFL continued to hold on merely to the craft unions and made no serious attempt to organize the great body of workers. Membership slowly fell from the wartime peak to less than 3,000,000 in 1932. The coal miners' union, which had been the largest in the AFL, not only failed to organize southern West Virginia and Kentucky but it was eliminated from most of the northern mines as well. Even the building-trades unions, which were the bulwark of the AFL, lost their grip on San Francisco and failed to penetrate such new industrial areas as Detroit. The spectacle of a union movement declining in prosperous times was unprecedented in history.

William Green

Samuel Gompers held on to his post as AFL president long after his prime, till he died soon after the 1924 convention, at the age of 84. The choice of William Green, then Secretary-Treasurer of the United Mine Workers, as his successor was an accident resulting from the egos and ambitions of two men named Lewis. The first Lewis, Tom (no relation to John L.), became president of the United Mine Workers in 1911 when the great John Mitchell resigned his UMW presidency. Two years later Mitchell also resigned as first vice-president of the AFL. Following the custom of the AFL when a member of the Executive Council resigns, the vice-presidents are moved up so that the last vice-presidency is open to a newcomer. Gompers, desirous of maintaining the political status quo of the AFL, therefore offered the eighth vice-presidency to Tom Lewis. The latter, displaying an ego reminiscent of his contemporary namesake, rejected the position, stating that he would have the first vice-presidency or none at all and suggesting that if the United Mine Workers could secure only an eighth vice-presidency, the AFL could give the job to Green. Thus the UMW secretary began his career as an AFL official.

Funeral by funeral, as it were, Mr. Green made his way up to the third vice-presidency by 1924. Meanwhile, the aggressive John L. Lewis had assumed the presidency of the United Mine Workers and clearly demonstrated his ambition by having the temerity to run for the AFL presidency against Samuel Gompers in 1921. John L. might well have made the grade that year except that Matthew Woll, president of the International Photo-Engravers' Union and then designated Gompers' heir apparent, assumed the role of Gompers' campaign manager. He persuaded the delegates of the 1921 AFL convention that if they turned

Gompers out, they would get a man who was so dictatorial that he could not possibly be lived with. The result was a two-to-one defeat for Lewis.

When Gompers died after the 1924 convention, the AFL Executive Council had the task of filling his shoes for the interim until the next convention met. Lewis, who wanted the job, knew he could not swing it, but he was determined to prevent his archenemy, Woll, from taking over. He therefore made a deal with the other "Indianapolis boys"—President Hutchenson of the Carpenters' Union and President Tobin of the Teamsters' Union, who like the miners' and typographical unions then had their headquarters in Indianapolis. The deal placed William Green, a compromise candidate in the AFL president's chair, and he was successfully re-elected every year until his death in 1952.

Although William Green owed his AFL presidency to John L. Lewis more than to any other one person, the decline in membership in the miners' union in the 1920's forced Green to rely more and more for political support on the building trades. As a result when the big controversy over union structure and power broke after the New Deal, Green was an ally of the craft unionists of many years' standing rather than of the industrial union group from which he got his start.

In 1932, on the eve of the New Deal, the AFL was close to being a broken-down organization which was losing members rapidly and had neither the finances, the structure, nor the will to recoup its losses. Nevertheless, in that very year Congress passed the Norris-LaGuardia Act ending "government by injunctions" by making it extremely difficult for an employer to secure an injunction from a federal court in a labor dispute and by denying federal court enforcement of yellow-dog contracts. Thus at the bottom of its fortunes, the AFL won the greatest legislative triumph of its career.

Labor under the New Deal

The Roosevelt administration, which came to power in 1933, brought gains to labor which were unprecedented in American history. In the wake of such legislation as the National Recovery Act, the National Labor Relations (Wagner) Act, and the amendments to the Railway Labor Act, trade-union organization increased to an all-time high, which, with the final impetus of war continued prosperity, and shortage of labor, drove union membership to a figure of 18,000,000.¹²

The first great New Deal law, the National Industrial Recovery Act, may be regarded as a sort of general handout to the different pressure groups in the country. Business and agriculture were encouraged to plan

¹² Discussion of legislation on collective bargaining is reserved for Part VII.

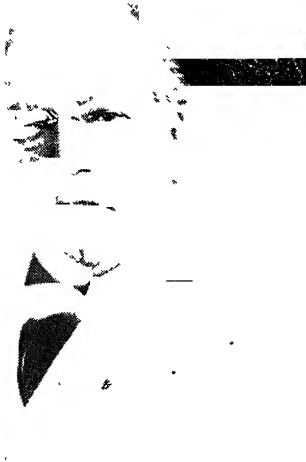
scarcity in order to raise prices, and labor was given the right to organize without management interference. Labor's right was not enforceable to a very important extent, but energetic unionism took immediate advantage of it. Gambling the last \$75,000 in the miners' union treasury, John L. Lewis sent expert organizers throughout the country's coal fields, and within 3 months he had enrolled 400,000 coal miners, including those in the previously impregnable antiunion strongholds of Kentucky and southern West Virginia. The International Ladies Garment Workers' Union resurrected and expanded itself, as did the Amalgamated Clothing Workers in the men's clothing industry. Unionism sprang up in the mass-production industries, unaided, unguided, and confused; for if some organizations sprang into action under the magic of NRA, most of the AFL lay quiet and asleep. Not until after considerable prodding did AFL organizers appear on the scene to help unionization in previously unorganized industries. Then, in industries, such as rubber and automobiles, where no AFL affiliate had general jurisdiction, the Federation chartered directly AFL-affiliated or "federal" locals.

Without a central organization, however, these new locals were often inept in bargaining. Moreover, craft unions of carpenters, electrical workers, machinists, etc., claimed the right to, and often did, demand that craftsmen in newly organized federal locals be turned over to them. The effect was usually to destroy the federal local and to estrange the transferred craftsmen from the labor movement until organizations suited to their purposes were founded.

In the steel and meat-packing industries, AFL unions did exist. The Amalgamated Association of Iron, Steel and Tin Workers, however, had an unbroken record of failures since the Homestead strike in 1889; and its leadership had neither the resources nor the capacity to undertake a large-scale organizing drive. Except for a short World War I interval, the Amalgamated Meat Cutters and Butcher Workmen never had penetrated the major meat-packing centers. Until revitalized in the late 1930's, it appeared content to confine its organization to the small packing establishments and to retail butchers.

Power and Structure Conflict

Failure on the part of the Federation to do a better job resulted in considerable criticism both within and without its ranks. Led by John L. Lewis, a growing clamor developed within the AFL for unionization of the mass-production industries on an industrial rather than on a craft basis. Jealous of their power and fearful of what the influx of large numbers of semiskilled and unskilled workers would mean to their status,



SAMUEL GOMPERS
President, AFL, 1886-94 and
1895-1924

Photograph by Rogers Studio, Seattle

WILLIAM GREEN
President, AFL, 1924-1952



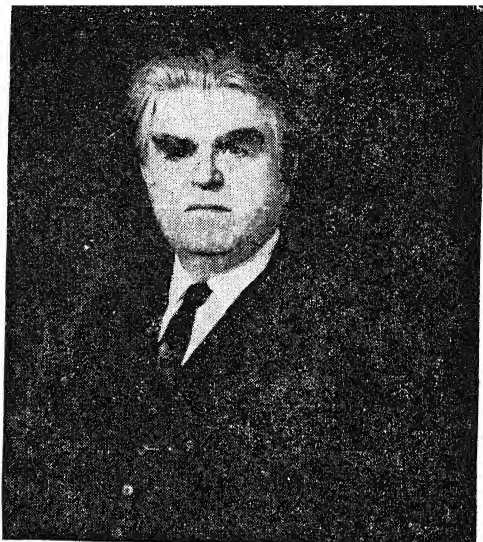
Photograph by Maurice Seymour, Chicago



PHILIP MURRAY
President, CIO, 1940-52

Photograph by Chase, Washington, D.C.

JOHN L. LEWIS
President, UMW, 1920—
Chairman and President, CIO,
1935-40



Photograph by Chase-Statler

WALTER P. REUTHER
President, UAW-CIO, 1946—,
and CIO, 1952-55



Photograph by Chase, Washington, D.C.

GEORGE MEANY
President, AFL, 1952-55
and AFL-CIO, 1955—



Photograph by Hessler, Washington, D.C.

the craft-union leaders declined to accept industrial unionism for the unorganized mass-production industries.

After two attempts at compromise in preceding conventions, the stage was set for the big blowup at the 1935 AFL conclave. Charging that the AFL leadership "seduced me with fair words," Lewis demanded that the Federation grant industrial union charters in mass-production industries. He expressed fear based on experience in the 1920's that lack of unionization in steel would endanger the new union movement in the coal mines because of the large-scale ownership of coal mines by steel interests. Moreover, Lewis realized that, having championed the cause of industrial unionism, the influx of new recruits from industrial unions would increase his prestige and power within the AFL.

The craft unionists, however, had the votes. Lewis' proposal was voted down. The issue was fought in terms of craft versus industrial unionism, but the basic issue was power, and the craft unionists held on to tradition and control.

CIO Is Formed

Even before the 1935 convention was over, the industrial-union group led by Lewis, Dubinsky of the Ladies Garment Workers' Union, and Hillman of Amalgamated Clothing Workers, Howard of the Typographical Union (acting as an individual), and including unions in the oil, textile, and metal mines industries, met and formed the Committee for Industrial Organization for the avowed purpose of organizing unorganized workers within the AFL. The original unions were soon joined by others, such as the rubber, flat glass, automobile, shipbuilding, and electrical appliance workers' unions, who had pleaded in vain with the AFL for industrial union charters. The CIO immediately offered the AFL \$500,000 to organize the steel industry. When the latter's Executive Council turned it down, Lewis succeeded in inducing the leadership of the virtually dormant Amalgamated Association of Iron, Steel and Tin Workers to put itself in a receivership to a newly organized Steel Workers Organizing Committee headed by Philip Murray, then vice-president of the United Mine Workers.

The AFL viewed these developments with alarm. Its Executive Council ordered the CIO to disband. When the latter refused and Lewis resigned as a vice-president of the AFL, the AFL Executive Council suspended the CIO affiliates for "promoting dual unionism." The haste with which the Executive Council acted and the probable lack of constitutionality in its suspension were not seriously challenged by the CIO unions,

except the Ladies Garment Workers' Union.¹³ The CIO group had given up the possibility that mass-production industries could be organized within the framework of the AFL. Hence when the AFL convention met in 1936, the CIO unions were not represented, and the two-thirds majority required for their expulsion by the AFL constitution was easily obtained from the delegates present.

The CIO Organizes Steel

The CIO challenge to the antiunion policies of the steel industry was met vigorously by the steel companies. Once more men were spied on and fired for union activity; the rights of assembly and speech in company-dominated towns were curtailed; and violence, bloodshed, and death erupted on the industrial scene.

The steel companies also used more refined tactics in trying to overcome the new union threat to their traditional methods of controlling labor relations. Large sums were spent on a nation-wide advertising campaign condemning unionism as a threat to the country. And considerable effort and money was expended to form and to maintain company unions.

This time, however, the steel companies met more than their match. The CIO drive had behind it money, effort, and, above all, the organizing "know-how" of union organizers who had already penetrated antiunion citadels as tough as those established by the steel companies. The tactics and flair for showmanship demonstrated by Philip Murray and his aides were superior to those put on in any previous organizing campaign.

For example, the CIO realized that the nation-wide advertisements sponsored by the companies gave the organizing campaign widespread publicity which it could not otherwise have obtained. Hence, in its rejoinder to the company publicity, which was often so extreme as to alienate the public, the union replied softly.

The year 1936 was an election year for the Roosevelt administration. The Republican candidate for President, Alfred M. Landon, was a relative of a prominent United States Steel Corporation official. The CIO

¹³ In 1935 the AFL constitution said nothing about Executive Council jurisdiction to suspend an affiliate. Unions could be expelled only by a two-thirds convention vote. If the CIO unions had been represented at the 1936 convention, no two-thirds vote would have been possible. The 1936 convention was reminded by several delegates that the Executive Council was "in such a hurry" to suspend the CIO that the procedure was questionable. Mr. Matthew Woll, leading exponent of the Executive Council viewpoint, later defended the suspension as follows: "The fact is that if the Council had not acted there would have been possible disintegration within the American Federation of Labor which would have been disastrous. The Council acted not so much to punish those who had formed the CIO, but rather to prevent disintegration from within." *The Hat Worker*, June 15, 1939, p. 11.

allied itself fully with President Roosevelt's re-election campaign and made much out of Landon's family connection with Big Steel and the support given Landon by many officials of steel concerns. The overwhelming re-election of President Roosevelt was followed by a large influx of steelworkers into the CIO.

Because the CIO drive in steel was well financed by the miners and needle-trades unions, it could afford to, and did, waive all union fees and dues until company recognition was secured. This promoted confidence among steelworkers who in the past had paid out union dues but never received anything to show for their support.

Toward company unions, Philip Murray, leader of the CIO drive, also adopted a new tactic. Instead of regarding them as archenemies, he saw company unions as a training ground. The CIO people attacked them by trying to get control and succeeded in a large measure. The United States Steel Corporation's money spent for company union agitation frequently served to promote the CIO. By January, 1937, it was apparent that the new steel union could close down Carnegie-Illinois, U.S. Steel's biggest subsidiary, if it so chose.

At this point, probably through the friendly offices of President Roosevelt and Senator Guffey of Pennsylvania, Myron Taylor, chairman of the board of U.S. Steel, and John L. Lewis were brought together. The result was an agreement recognizing the CIO as bargaining agent for its members in all U.S. Steel subsidiaries in the iron and steel industry. The arch opponent of unionism thus came to an agreement with a new CIO union, a triumph for the latter that insured its existence.

The CIO drive in steel was temporarily slowed down by the defeat of its recognition strikes against several of the major "Little Steel" companies¹⁴—strikes that were among the worst in American history in terms of violence. Four years later in 1941, however, the steel union came back to win bargaining rights in all these concerns. Today, under the name of the United Steelworkers of America, this CIO union has a membership in excess of 1 million and contracts covering nearly all major steel concerns, as well as numerous companies in related industries.

Rubber, Autos, and Other CIO Drives

While the steel drive was getting under way, labor erupted in the rubber and automobile industries. These unions were not started from the top down as in steel but grew straight from the rank and file. Using a new technique, the sit-down strike, workers in the rubber and automobile industries took possession of plants of such giant corporations as

¹⁴ Bethlehem, Republic, Youngstown, and Inland, all giant corporations.

Goodyear, Chrysler, and General Motors. This unorthodox and undoubtedly illegal procedure won recognition from these corporations because of general public sympathy with the objective of union recognition. (There never was any attempt by the unionists to seize permanent control of the plants.) The lawlessness involved in the sit-down, however, soon became sufficiently apparent to react against unionism. It was shortly abandoned as an approved tactic so that by early 1938 sit-downs virtually disappeared from the American scene, except in a few isolated instances where they were used by Communist-controlled unions in New York City.

In the rubber industry, the CIO won bargaining rights at United States Rubber, Firestone, and Goodrich in the 1930's, but the status of the union at Goodyear was not officially recognized until 1941. Today, the CIO rubber workers' union is not only dominant in this industry but has spread out in the cork, linoleum, floor tile, and plastic industries as well.

Although sit-down strikes won the CIO recognition at Chrysler and General Motors, Ford did not yield until 1941, when a strike closed down the great plant at River Rouge. Today the auto workers, after expanding into the aircraft and agricultural implement industry, boast a membership in excess of 1 million.

CIO unions also succeeded in organizing the packing houses and stockyards in the large centers as well as the bulk of the electrical appliance industry. The old Western Federation of Miners, now known as the International Union of Mine, Mill and Smelter Workers, near extinction in 1935, became a CIO charter member and gained over 20,000 workers 10 years later, principally in the western silver and copper mines and smelters. A new union, the National Maritime Union, started from remnants of the then decadent International Seamen's Union, AFL, brought unionism to the East Coast seamen for the first time since World War I.

The revolt of the East Coast seamen did something else. It forced the AFL to reorganize its seamen's union, in effect dissolving the International Seamen's Union and forming in its stead the Seafarers' International Union which has since grown larger than the National Maritime Union, its CIO rival. To a lesser degree, the CIO had the same general effect on the AFL as the formation of the National Maritime Union had on the AFL seamen's organization. Forced to meet an energetic rival for the first time since it outdistanced the Knights of Labor (the IWW of pre-World War I was no great threat organizationally), the AFL and its constituent unions got out of their easy chairs and really went to work. Although for a time the CIO threatened to surpass the AFL in membership, it never did. For the first time, AFL unions such as the Machinists and the Teamsters really made an effort to take in the thousands of work-

ers within their jurisdictions. By 1953, membership in the AFL included almost half of the 16,500,000 unionized. By then the CIO, having lost the Ladies Garment Workers and the United Mine Workers, and having expelled the Communist-led unions, as will be narrated below, could claim but 4,500,000, with the remaining unionized found in nonaffiliated unions.

Once the CIO was firmly established in the mass-production industries, the AFL leaders made no more pretense of opposition to industrial organization. Indeed, if only as a defensive measure, the AFL accepted industrial organization wherever the alternative might be loss of jurisdiction to the CIO. For example, the Machinists were granted exclusive AFL jurisdiction in aircraft manufacturing to counteract the CIO Auto Workers' drive in the same industry. But although acceptance of industrial unionism was admittedly eliminated as a basic thorn in the side of labor unity, it was replaced by concurrent jurisdictional claims as both the AFL and the CIO lost little time in chartering rival unions in jurisdictions dominated by affiliates of the other, and opening their doors to dissident groups of the other. The CIO chartered groups in such AFL-dominated areas as building construction, railway shop crafts, and pulp and paper. The AFL, in turn welcomed rump groups from the CIO-dominated automobile and rubber industries and tried mightily to gain a foothold in the CIO industrial union stronghold of steel.

Throughout the 1930's and early 1940's numerous discussions between AFL and CIO leaders occurred seeking labor unity, but the will was lacking for success. Meanwhile, each side was building up vested interests in the form of job holders dependent upon disunity, and each side was further encroaching upon the jurisdictional claims of the other.

In 1938 the CIO set up a permanent organization, the Congress of Industrial Organizations. The International Ladies Garment Workers' Union, one of the CIO's founders, however, declined to enter the permanent body and after 2 years of independence returned to the AFL. President Dubinsky of the ILGWU charged (with considerable evidence) that the main stumbling blocks to labor unity were then John L. Lewis and the Communists in the CIO; but certainly other factors, the establishment of rival unions by each group, the interest of labor office holders in maintaining their vested interests and jobs, and the standpatism of old line AFL leaders, were also important.

World War II to the Korean War

World War II was a period of expanding union membership. Soon after our entrance into the war, a National War Labor Board was estab-

lished with union and management as well as public representation, the union groups being divided equally between AFL and CIO. Despite the stresses and strains, the NWLB maintained a high record for peaceful settlement; and apart from numerous "quickie" strikes, labor observed its no-strike pledge. The tight labor market and expanding industry aided union membership to grow steadily. But the large number of small stoppages, combined with the few large ones, particularly the miners' strikes under John L. Lewis, saw public opinion turn against unions.

The end of war and the lifting of economic controls resulted in a psychological outburst on many fronts. Labor's response was strikes—1946 was the greatest strike year in American history in terms of man-days lost. Wherever the responsibility may have belonged, the public blamed labor; the result contributed to the congressional election sweep of the Republicans in 1946 and to the passage of a union-control law, the Taft-Hartley Act, in the following spring.

Nevertheless, unions won great gains in money wages during the post-World War II years. Each year after the war, wages rose dramatically—7-20-cent-per-hour increases spread successively through the economy. In spite of wide variations, the pattern of increases granted by such industrial giants as United States Steel or General Motors to equally large CIO unions was followed by hundreds of small concerns and unions in collective bargaining. Yet postwar rising prices reduced the wage gains to little in terms of purchasing power. Labor fought postwar inflation by matching it with wage gains—which aggravated it.

The severity of the postwar strike wave came as a surprise to both union and management leaders. During the war, a strike was a signal for a flurry of government and management activity to get the men back to work. As a result wartime strikes were of short duration.

When the postwar strike wave started, management did not think that unions could hold out for a long period, and the unions did not think that the strikes would last long. Neither could have been more wrong. The General Motors employees were out on strike for nearly 3 months in the coldest part of the year, from December, 1945, to March, 1946; Westinghouse employees stayed out almost 4 months; strikes in steel, coal, and other industries were also of long duration. Yet the workers did not seem to give serious consideration to returning to work without their union approval. Managements, fortified by the knowledge that economic losses resulting from strikes could be partially made up by offsets on previous years excess profits taxes, were in no hurry to settle until certain that the government would not continue its short-lived attempt to hold the price line after the war as it had done during the war.

With all of management opposition, however, no attempt was made by any large industrial plant to break a strike by the use of strikebreakers. In sharp contrast to the strikes after World War I, those after World War II were conspicuous by the lack of violence and bloodshed. The spectacle of the employer having doughnuts and coffee served to pickets in front of his plant was a welcome sight to those who remembered the armed conflicts between pickets and strikebreakers during earlier years.

Despite the fact that most large postwar strikes resulted in substantial wage increases for the strikers, unions did not gain in favor or significantly in membership during the period between the end of World War II and the beginning of the Korean war. Much publicized CIO and AFL drives to organize the South were almost completely unsuccessful. Gains in membership which the CIO and AFL recorded during this period resulted mainly from the expansion of employment in plants already unionized. Price increases which generally followed large wage increases were blamed often by press and public upon the unions without regard to management's part. Public esteem did not keep pace with the growing union membership.

Labor's poor public relations were especially bad in the rural areas and small communities. The antiunion drive at the turn of the century was not overcome 50 years later. State legislatures dominated by rural interests appeared eager to pass legislation designed to curb unions. And the most popular of these laws echoed the NAM's 50-year old campaign to maintain the "worker's right to work." More than twenty states adopted laws between 1940 and 1953 designed to outlaw boycotts or the union shop or any variation thereof which requires union membership as a condition of employment. As in 1900, unions are regarded as alien in many rural communities. In the South, still predominately nonunion, this feeling is especially strong. Yet union leaders for years have been fighting a really alien movement, that of the Communist Party.

COMMUNIST UNIONISM

The Russian revolution has had profound effects on the American trade-union movement, although these effects have undoubtedly been mild as compared with the effects in many other democratic and once democratic lands. The American Communist Party was organized in 1919 and secured the adherence of William Z. Foster, a brilliant organizer who had led the great unsuccessful steel strike in 1919. After a trip to Moscow, Foster was thoroughly indoctrinated and has spent the rest of

his life in the service of the Communist Party, of which he became national secretary.

Communism in the 1920's

In 1921, Foster organized the Trade Union Educational League, an avowed purpose of which was to bore within and take over existing trade-unions. Foster and his associates chose as their major point of attack the needle-trades unions of New York, a natural selection in view of the large number of Slavic and Jewish immigrants in this industry, their bitter remembrance of life under the czars, and their naturally friendly sentiment toward a government which proclaimed itself socialist and equalitarian.

Foster's success was immediate. One by one the large New York locals of the Ladies Garment Workers' Union fell into his camp, until the only major local that stood out against him was the powerful Cutters' Local No. 10, oldest in the ILGWU. This local was led by a brilliant, young Polish-born Jew, David Dubinsky, who was able to convince his fellow unionists that Foster was more interested in promoting the Communist Party than in building up the union.

Between 1922 and 1928 the ILGWU was nearly wrecked by intra-union strife, but in 1926 the Communists, preferring "militancy" to "arbitration," pulled out 35,000 New York workers on strike and led them to a crushing defeat at the end of which only the Cutters' Local 10 was solvent. From then on that union has been featured by Dubinsky's rise to power and the gradual but total elimination of the Communists.

In 1929 the International Communist Party changed its position from boring within to nonco-operation with democratic groups. The American party thereupon organized the Trade Union Unity League as a rival organization of the AFL. Except for the fur workers, it was largely a paper organization. It did take over agitation in a number of troubled areas during the depression, however, and in the early NRA period, it sent out organizers who attempted, mostly unsuccessfully, to establish unions.

The total bankruptcy of the Moscow policies of fighting democratic groups more severely than totalitarianism of the right became strikingly clear with the advent of Hitler in Germany. In 1935 the party line was changed once more. The result was the "popular front" in Spain and France. In America, "Revolutionary utterances were discarded for a verbal wardrobe of conformity and respectability; Mr. Earl Browder, head of the party in the United States, uncovered the 'historical fact' that

the Communists were the real inheritors of American democracy and spoke approvingly of Thomas Jefferson and Abraham Lincoln. 'Fellow travellers' were recruited from all who—knowingly or unknowingly—chose to travel."¹⁵

Infiltration into the CIO

The trade-union aspect of this party-line official integration of communism with democracy marked the first successful entrance of Communists into the American labor movement. From 1935 to 1937, Communist groups concentrated their efforts on AFL unions but, by the latter year, saw in the CIO a more fertile ground and accordingly transferred their efforts en masse to that federation. In so doing they received unexpected assistance from an old enemy, John L. Lewis. During the 1920's Lewis fought as "reds" not only Communists but everybody else who opposed him. But now he looked upon them as pawns whom he could use to aid the CIO. The new CIO was greatly in need of organizers, and the Communists offered to supply them. Against the warning advice of David Dubinsky, Lewis accepted their assistance, and thousands of CIO jobs were filled via the Communist Party.

That party members made excellent organizers no one can deny; but they used their positions to infiltrate in the unions, to take over strategic positions, and to secure CIO charters for organizations of their own creation with few members other than their Communist officers. However clearly disguised, for them the party was always first, the union second. An uneasy truce between Communist and non-Communist elements in the CIO existed until 1939. Then came the Nazi-Soviet nonaggression pact and World War II.

As suddenly as they had joined democratic elements, the Communists throughout the world abandoned them. Roosevelt, whom they had supported in 1936, was dissected as an imperialist warmonger in 1940. Everywhere the Communists opposed the defense program and promoted strikes, whenever possible, to interfere with it.

Here again, John L. Lewis proved a useful ally to the party. He was a confirmed isolationist with a gradually growing hatred of President Roosevelt, which began in 1937 when the President declined to support the Little Steel strike as strongly as Lewis wished him to. Lewis thus opposed Mr. Roosevelt in 1940 for reasons very different from those of the Communists, but nonetheless they both arrived at the same spot. When Lewis announced that he would support the Republican candidate, Wendell Willkie, and would resign from the presidency of the CIO

¹⁵ Millis and Montgomery, *op. cit.*, p. 240.

if Roosevelt were re-elected, his support came mainly from the Communists in the CIO. True to his promise Lewis resigned at the CIO convention following the 1940 national elections, and Philip Murray succeeded him.

Until June, 1941, Lewis held the balance of power in the CIO. Not only was Murray opposed by the vocal left-wingers but he became ill. The CIO was run by former Lewis appointees, while Murray convalesced through 1941. Then came the invasion of Russia by Germany and the sudden change (in the minds of Communists) from an "imperialistic war" to that of a "proletarian war against Fascist aggression."

More Party-Line Shifts

Mr. Roosevelt, who on June 21 was a "Wall Street imperialist and warmonger" in the *Communist Daily Worker* became "our beloved commander in chief behind whom all must unite," 3 days later. Communist support of John L. Lewis, who maintained his isolationist position, disappeared as if by magic. Philip Murray, who in his own words, "was in the estimation of some people in 1940 down in the bottomless pits of hell" because he had supported the defense program, suddenly found that "there came a day, the 23rd of June [when Germany invaded Russia] and I was still supporting my country. I was dragged by these same citizens from the bottomless pits of hell and lifted to a veritable sainthood."¹⁶

Henceforth, Murray effectively assumed the helm of the CIO and remained also president of its strongest affiliate, the United Steelworkers. Lewis gradually dropped into the background of CIO affairs, and then in 1943, he took the United Mine Workers out of the organization which it had done so much to create. With Lewis went "District 50," a nationwide branch of the Mine Workers which was set up originally for coke and coal by-product workers but was later expanded to take in any industrial group which it could organize. District 50 had thus become a sort of minor labor movement appendage of the United Mine Workers.

Reasonable co-operation between the AFL and the CIO in an all-out war effort featured the war years 1942 to 1946, with the Communists preaching full co-operation with industry and government. Then the party line changed. Earl Browder, the protagonist of capitalistic co-operation, was ousted, and William Z. Foster, orthodox exponent of the class struggle, was named national secretary. Relations between the left and the right in the CIO grew steadily worse as the right wing backed the Marshall plan for European reconstruction and opposed the third, "Progres-

¹⁶ *Steel Labor*, March, 1948.

sive," party of Henry Wallace, while the left opposed the former and promoted the latter. Aided no little by the anti-Communist requirements of the Taft-Hartley Act and the dynamic leadership by youthful Walter Reuther of the United Automobile Workers, the right wing of the CIO administered a series of drubbings to the Communists.

Reuther ousted the Communists from the auto union and then opened his union's doors to many locals seceding from the Communist-dominated Mine, Mill and Smelter Workers', Electrical Workers', and Farm Equipment Workers' unions. Joseph Curran, president of the National Maritime Union (CIO), and Michael Quill, president of the Transport Workers Union (CIO), both at one time fellow travelers of the Communists, broke with the party and wrested control of their unions from it.

During 1948 and 1949 the split between CIO leaders and the Communist-dominated unions widened until at the CIO's 1949 convention, two Communist-dominated unions, the Farm Equipment Workers and the United Electrical, Radio and Machine Workers, disaffiliated and merged. The CIO promptly set up a rival union for the electrical product jurisdiction, the International Union of Electrical, Radio and Machine Workers, which in 5 years won about three fourths of the expelled union's 400,000 members back to the CIO.

Also at the 1950 CIO Convention, action was started which led to the expulsion of nine other Communist-controlled unions.¹⁷ Several of these organizations were small and have virtually disappeared. A few, like the International Longshoremen's and Warehousemen's Union, under the controversial Harry Bridges, and the Mine, Mill and Smelter Workers have managed to retain their following. Members of the Mine, Mill and Smelters, the former Western Federation of Miners, find it difficult to repudiate an organization which has been under attack for "radicalism" so long. Their Communist-oriented leaders cleverly play on the traditions of the honest radicalism of the past to hide their conspiratorial acts disguised as radicalism of the present.

This points up the main difficulty in rooting out Communist union leaders. By disguising their activities as being militant in behalf of the wage earner, the Communist leader is usually able to disguise his ulterior motives. And remembering how men like Philip Murray and Walter Reuther have been smeared as "reds," workers are loathe to believe their leaders are Communists even when they are. Not until the Communist

¹⁷ Mine, Mill and Smelter Workers; United Office and Professional Workers; United Public Workers; International Fur and Leather Workers; Food, Tobacco and Allied Workers; Marine Cooks' and Stewards' Association; Fishermen's Union; International Longshoremen's and Warehousemen's Union; and American Communications Association.

Party line obviously departs from union tactics will the average worker be thoroughly convinced of the dangers of Communist leadership. And once in power, the Communist leader will use every parliamentary trick and every power tactic to maintain control.

The Significance of Communism

Why should Communist control of unions be of importance? The answer is apparent in history. It stems from a two-pronged source. First, the Communist Party exercises a discipline over its members equaled only by other totalitarian forms (fascism, nazism). A Communist cannot remain such and act as an individual. He cannot be a union member first and a Communist second. Therefore, whenever union interests and Communist interests are diverse—as they often are—the union is sacrificed on the altar of communism. The record is replete with instances in which the economic interests of union members have been disregarded for the political interests of the party: opposition to pro-labor, but anti-Communist candidates for office; political strikes; financial support for party “fronts,” etc. When the Communist Party line, obviously dictated by Moscow, ordered the Communist leaders inside the CIO to follow policies on the political and economic fronts directly contrary to CIO policies, the CIO had either to expel the Communists or in effect continue to tolerate an outside, nonlabor organization giving orders to its constituent unions. The honeymoon between CIO trade-unionists and the Communists, begun by John L. Lewis, had to end.

The other reason for concern about Communists in the labor movement is that it can be demonstrated to any reasonable man that the only determinant of Communist policy is Russia’s interests. No example exists of American Communist policy or activity which upon full analysis is not revealed as being designed to help the Soviet regime.

Finally, it should be noted that Communists have never had a mass following in the American labor movement. Their strength is concentrated in a few unions, but their control even there is based on minority manipulation, and today they are more than ever on the defensive. Their exposure has been hindered as much by indiscriminate “red-baiting” of anything or anyone radical or liberal as by misconception of the anti-democratic character of communism.

RELIGIOUS LEADERSHIP IN UNIONS

An important factor in the fight against communism in many unions has been the Association of Catholic Trade Unionists, which since its

founding in 1937 has grown in numbers and influence.¹⁸ The ACTU has not aimed at building a Catholic trade-union movement, such as exists in many European countries. Rather it has devoted its energies to the direction and support of workers seeking aid to unseat unsatisfactory leadership or needing help in organization. In the first capacity, the ACTU played a notable role in helping the New York City subway workers, a predominately Catholic group, rid themselves of Communistic leaders. And in the fight against the mass of racketeers which has preyed upon longshoremen, the ACTU has for many years been the only effective opposition to the mobsters. The ACTU is thus in the field primarily of providing leadership for inexperienced workers' groups.

The Protestant and Jewish churches maintain no group similar to ACTU, but they have not been absent in the labor field either. A special section of the National Council of Churches of the Protestant Churches is devoted to the task of bringing the church and labor together. Labor institutes, interpretation of labor's aims to the churches, and the church's to labor, and various acts of assistance to labor union problems have been among the functions performed by the Protestant group.

Jewish groups were once active in the labor field to an even greater extent than the ACTU, but the Jewish organization, the United Hebrew Trades, was not developed under the leadership of Jewish synagogues. Rather the UHT served as an organization and communications vehicle between the mass of Jewish immigrants working primarily in the New York City needle trades and the AFL. UHT leadership was an important factor in saving the Ladies Garment Workers' Union from Communist domination in the 1920's. Today, the United Hebrew Trades still is active in various projects, such as assistance to the Israel trade-union, Histadrut, which are of special interest to Jewish workers.

When Samuel Gompers assisted in organization of the United Hebrew Trades in 1888, he had serious qualms about the propriety of organizing a separate Jewish group because he did not believe in organizing workers along religious lines. Gompers, however, supported the United Hebrew Trades on the grounds that "to organize Hebrew Trade Unions was the first step in getting these immigrants into the American Labor movement." Gompers was proved right in believing that the UHT would draw Jewish immigrants into AFL unions rather than separate them from such unions.

¹⁸ See Philip Taft, "The Association of Catholic Trade Unionists," *Industrial and Labor Relations Review*, Vol. II (January, 1949), pp. 210-18; Will Herberg, "Jewish Labor Movement in America," *Industrial and Labor Relations Review*, Vol. V (July, 1952), pp. 501-23, and Vol. VI (October, 1952), pp. 44-66; and James Meyers, *Do You Know Labor?* (New York: John Day Co., Inc., 1940), chap. xviii.

Questions have been raised whether the formation of the Association of Catholic Trade Unionists presages a split in American unionism along religious lines. Those who believe that it does point to the separate Catholic unions in European countries and among French Canadians. Thus far, however, ACTU has exhibited no tendency toward promoting a separate Catholic union movement, and the social fabric of the United States would seem to preclude such an event.

THE ACHIEVEMENT OF LABOR UNITY

In 1953, there developed for the first time since the formation of the CIO in 1935 a real interest in organic unity on the part of both the top AFL and CIO leadership. This interest coincided with the rise of new leadership in both federations. In November, 1952, within 2 weeks of each other, Philip Murray, president of the CIO, and William Green, president of the AFL, passed away. Walter Reuther, president of the United Auto Workers, succeeded to Murray's office. George Meany, former president of the Plumbers' Union and later secretary-treasurer of the AFL, succeeded Green. Reuther and Meany immediately initiated action toward achieving a no-raiding pact, which was ratified by the AFL and CIO conventions. In February, 1955, Reuther and Meany negotiated an agreement which brought the CIO back into the AFL fold. By the end of 1955, both AFL and CIO conventions had ratified the pact. A new organization, known as the American Federation of Labor and Congress of Industrial Organizations, was born with George Meany as its head.

In order to achieve labor unity, Messrs. Meany and Reuther had to overcome two pillars of the AFL foundation which heretofore had been too great a stumbling block—the principle of exclusive jurisdiction and the principle of the autonomous national union.

The doctrine of exclusive jurisdiction provided that each affiliated national union should have a clear and specified job territory and boundary ordinarily defined in terms of work operations, crafts, trades, occupations or industrial grouping of jobs, and occasionally defined in terms of geography.¹⁹ Under this doctrine, no two unions were supposed to have jurisdiction over the same work operations or area, and, as a corollary, the AFL by determining union jurisdictions also determined the union the individual employee should join.

In actual fact, this doctrine was outmoded in 1935 by the passage of

¹⁹ John T. Dunlop, "Structural Changes in the American Labor Movement and Industrial Relations System," *Proceedings* (Industrial Relations Research Association, 1956), p. 13.

the National Labor Relations Act. As that law has operated in both its original or Wagner and its amended or Taft-Hartley Act forms, workers vote in a bargaining election to determine which union they desire to represent them. If they disregard federation jurisdictional lines, their votes and not federation's rules are what counts. When the labor movement split in 1935, workers usually had a choice of at least two unions. The principle of exclusive jurisdiction has since that date been more a philosophy than a fact.

Previous discussions of labor unity between the AFL and CIO presupposed that competing unions would merge as a part of the unity movement. The question of which union and, therefore, which group of officials would come out on top in such merger added to natural rivalries and hindered rather than assisted the progress of unity. Meany and Reuther overcame this difficulty by providing in effect that the jurisdiction actually exercised by each affiliate at the time of the merger was to be preserved intact and that established collective bargaining relationships supplanted historical jurisdiction as a basis for unions' territorial or organizing rights. For unorganized groups or for groups outside of the merged federation, a union was supposed to organize on the basis of its historical jurisdiction with the federation determining priorities and rights in case of a dispute.

By 1958, only two unions had merged—the former CIO Paper Workers' Union and the former AFL Brotherhood of Paper Makers. In all the other fields, the former affiliates of both AFL and CIO were continuing to operate as they did before the merger. As a result there are more frequently than not at least two unions in one historical jurisdiction. The big difference since the merger is the absence of raiding—the absence of one union attempting to recruit members, or even accept members, from another organization within the AFL-CIO.

The second significant alteration in the fundamental concept of American unionism as developed originally by the American Federation of Labor has been the modification of the principle of autonomy by the requirement that national unions shall be free of corrupt and totalitarian influences if they are to maintain AFL-CIO affiliation. In accordance with this procedure, the AFL-CIO has set up codes of ethics, an ethical practices committee, and has proceeded to demand compliance with these regulations at the expense of what formerly would have been considered the autonomous rights of a national affiliate.

The net effect of the scrapping of the principles of autonomy in favor of the principle of clean unionism, however, may well be to create almost as much disunity in the labor movement as existed before the

merger. For in 1957 the AFL-CIO expelled its largest affiliate, the Teamsters' Union, because of its failure to clean its house of persons who had brought the labor movement in ill repute by their questionable practices. If the Teamsters and other small affiliates which have also been ousted drift away from the AFL-CIO permanently, a new cleavage in the labor movement is inevitable. Moreover, within the AFL-CIO there remains a certain amount of sympathy for the Teamsters, particularly in the unions in the building trade which are closely identified with the Teamsters in local bargaining relationships. The President of the Carpenters' Union, Maurice Hutcheson, has publicly declared his sympathy with the Teamsters' Union and along with the heads of several smaller unions voted against the ouster of the Teamsters. It is always possible for other building trade unions to join the Teamsters in a new labor federation, although that does not appear to be likely if joining the Teamsters puts these other organizations under the same cloud of association with unethical or racketeering elements in society.

The achievement of unity between the AFL and the CIO also did not automatically bring all other labor unions under one roof. John L. Lewis' United Mine Workers still remain aloof, although that situation may change when Lewis, already approaching 80 in 1958, is no longer at the helm of the UMW. The remnants of the Communist unions which were thrown out of the CIO still operate independently, but their numbers are steadily declining. Approximately 5 million workers are in various independent unions, most prominent of which are the railroad brotherhoods. For the first time in the history of the labor movement, two of the original Big Four railroad brotherhoods—the Brotherhood of Locomotive Firemen and Enginemen and the Brotherhood of Railroad Trainmen—ceased their independent course and affiliated with the AFL-CIO in 1957, as did one of the smaller railroad unions, the American Train Dispatchers Union. It is likely that other independent railroad unions, as well as independent unions in other fields, may follow suit. In a matter of a few years, only a few small unions and the Communists may be outside of the AFL-CIO sphere—unless the dispute over ethical practices or the lack thereof in the Teamsters' Union creates a permanent labor group revolving around the Teamsters' organization.

The unity of the AFL-CIO can result in some major changes in some union policies. As long as union rivalry exists, many decisions are made in which fear of the rival union is the decisive motivation. For example, in 1948 the AFL Meat Packing Union and the Major Meat Packers agreed to a 9½-cent-per-hour wage increase. The rival CIO union held out for more and struck in an attempt to gain a better bargain. The strike was

long and cost the workers and companies a great deal. The net effect was that after 8 weeks the CIO union was forced to come back to work on company terms. A few years later these unions co-operated and pressed their demands jointly. There was no strike nor other unnecessary loss such as rival unionism had caused in 1948.

On the other hand, rival unionism also acts as a spur to union leadership. Competition is good for everybody, and the union movement is no exception. The competition of the CIO brought the AFL out of the doldrums, and each pressed the other to do a better job for its members. When the workers are dissatisfied with their union leadership, they can change the leadership within the union or change it by throwing out the union for a new one. Organic unity will either eliminate or greatly reduce that second possibility which is so important in keeping union leadership the servants rather than the masters of the rank and file.

AMERICAN UNIONS TODAY

Table 4 shows the growth of union membership from 1890 to 1957, and the percentage of the labor force unionized. The great periods of growth were during World War I (which gains were substantially lost during the 1920's) and the periods between 1935-40 and 1940-46. Since 1946 the percentage of the labor force unionized has been relatively constant, as union gains have done little more than keep pace with

TABLE 4
LABOR FORCE AND UNION MEMBERSHIP, SELECTED YEARS, 1890-1957

Year	Labor Force* (Millions)	Union Membership (Millions)	Percentage of Labor Force Unionized
1890	23.3	0.37	1.6
1900	29.1	0.87	3.0
1910	37.4	2.1	5.6
1920	42.4	5.1	12.0
1930	48.8	3.4	7.0
1935	50.5	3.9	7.7
1940	53.3	8.5	15.9
1946	60.8	15.0	24.7
1950	63.5	16.0	25.2
1953	65.5	16.5	25.2
1957	70.7	18.0	25.4

*Data prior to 1940 includes "gainfully occupied," a somewhat, but not significantly, wider term than "labor force"; also data prior to 1940 includes children 10-14 years old who are not included thereafter, but very few such children were found in the labor force by 1940

(This Table, which is identical with Table 3, is reproduced for reader convenience.)

SOURCES: *Labor Force*: U.S. Bureau of Census, *Union Membership*, Leo Wolman, *Ebb and Flow in Trade Unionism* (New York: National Bureau of Economic Research, Inc., 1936), pp. 229 ff.; Florence Peterson, *American Labor Unions* (New York: Harper & Bros., 1945), p. 56; 1946-57, U.S. Department of Labor estimates.

the increases in the labor force. As a matter of fact, union growth since 1946 has stemmed largely from the expansion in employment by firms under union contract. The nonunion groups in 1946 were still nonunion for the most part 11 years later.

TABLE 5

"NONORGANIZABLE" GROUPS IN THE LABOR FORCE, 1957

Total labor force	70,700,000
Self-employed and managers*	12,500,000
Professional workers	5,700,000
Unpaid family workers	2,000,000
Armed services	3,000,000
Total nonorganizable	23,200,000
Net organizable	47,500,000
Total organized	18,000,000
Potentially organizable	29,500,000
Per cent of net organizable unionized	38.0

* Includes government workers in these nonorganizable groups. Other government workers and other white-collar workers considered organizable.

SOURCE: U.S. Bureau of Census estimates projected by authors to 1957.

Although Table 4 shows that 25.4 per cent of the labor force is unionized, this is an understatement of union strength. Actually, more than 23 million of the unorganized members of the labor force are in occupations which do not lend themselves to organization. The distribution of the "nonorganizable" group is set forth in Table 5. By subtracting the nonorganizable from the total labor force, a net organizable of approximately 47.5 million is obtained. With 18 million unionized, organized labor has brought within its ranks 38 per cent of those who are potential union members.

The Declining Rate of Union Growth

How fast will unions recruit the still unorganized? Probably at a slow rate for many years to come. Since World War II, unions have been in an organizing slump. The statistics of the National Labor Relations Board clearly point up this fact.

In 1945, approximately 1.1 million workers participated in NLRB elections called to determine whether workers desired to have unions represent them in collective bargaining. By 1950, only about 800,000 so participated, and by 1957 the figure had dropped to approximately 400,000.

Elections to determine the right of unions to represent workers are not called unless a union can give reasonable evidence that it has a strong

following among the workers involved. In 1957, unions thus presented such evidence involving only 36 per cent as many workers as in 1945.

But unions must also win a majority vote once an election is called if they are to be certified by the NLRB as the bargaining agent of the workers involved. In 1944, unions won 84.5 per cent of the NLRB representation elections. In 1953, they won only 71.9 per cent of such elections, and in 1957, only 60.9 per cent.²⁰ In other words, even after unions made a showing of strength sufficient to induce an election, they were rejected as bargaining agents by workers in four out of every ten elections in 1957 as against 1.5 of ten elections 12 years previously.

One may deduce a variety of explanations for this slump. The unions blame such causes as "the climate of Taft-Hartley," competitive organization drives before AFL-CIO unity was achieved in 1955, and in 1957 "Beckism," i.e., the unfavorable publicity resulting from disclosures of malpractice and malconduct on the part of Dave Beck as president of the Teamsters' Union, and of a few other union officials.

Actually, however, the slowdown in union growth is attributable to more fundamental causes. The most easily organized groups are already within the union fold. The skilled trades, the workers in the great industrial centers, the large mass of workers in steel, coal and metal mining, automobile, heavy machinery, building construction, public utilities, and transportation are already almost completely covered by union contracts. Here are the groups that the unions have yet to reach in substantial numbers:

- a) The service industries
- b) White-collar employees
- c) The southern textile industries and other southern workers outside of the union enclaves of Birmingham, Alabama, and Richmond, Virginia
- d) The 2-100 employee shop

The first and the last are difficult and expensive for union organizers to reach. Both are featured by high turnover, close association of employee and employer, and a philosophical indifference, if not dislike, of unionism.

White-collar workers, the largest unorganized group, are the least inclined toward unionism. They regard themselves as a group apart from factory workers, and approaches by factory-oriented union organizers have only increased their feeling of animosity toward unions. Drives by organized labor to enroll white-collar workers since World War II have been conspicuous failures.

²⁰ *Business Week*, July 13, 1957, p. 144, summarizing official NLRB data.

In the South, organized labor has likewise failed to make headway. Unions have been treated as "invaders" by whole communities. The race issue has been used by employers to divide white and black workers and to oppose unions. Strong employer opposition and traditional Southern dislike of "outsiders," especially from Northern industrial centers, have also helped to keep unions out, and promise to do so for many years.

Concentration of Union Membership

In 1957 the six largest unions had more than one third of the total union membership. These unions—the Teamsters, the Automobile Workers, the Steelworkers, the Machinists, the Carpenters, and the International Brotherhood of Electrical Workers—all claimed more than 700,000 members, with the first three claiming more than one million each.

It is interesting to note, as set forth in Table 6, that over the years the six largest unions have generally accounted for about one third of the total union membership. Although the make-up of the six largest has changed from time to time, the Carpenters have always been represented in the group, and the Miners were represented until very recently.

The elimination of the United Mine Workers from the "Big Six" is a direct result of the decline in employment in the coal mining industry, which John L. Lewis' organizing efforts in other jurisdictions has not born fruit rapidly enough to overcome. On the other hand, the Brotherhood of Carpenters and Joiners have been able to maintain their place in the Big Six not only because of the postwar boom in building construction and the continued importance of their trade but also because their union has branched out and organized on an industrial basis, woodworking and furniture plants and lumber workers.

The International Association of Machinists and the International Brotherhood of Electrical Workers, like the Carpenters, are former craft unions which have branched out and organized factory workers on an industrial basis. For example, the Machinists now include skilled and unskilled employees of aircraft factories and a great variety of metal working shops. The Electrical Workers include not only electricians but also employees of all classes in public utilities and electrical and communication products manufacturing.

The Automobile Workers and the Steelworkers are the only former CIO unions in the Big Six. Their size is largely the result of the size of the basic industries whose employees they represent, but they have augmented their growth by spreading into related jurisdictions. The auto union now includes aircraft employees and the bulk of the workers en-

TABLE 6
THE SIX LARGEST UNIONS, 1900-1957

Year	Six Largest Unions (In Order of Membership)	Membership of Six Largest	Total Union Membership	Percentage of Total Union Membership in Six Largest
1900	Miners Carpenters Railroad Trainmen Cigarmakers Locomotive Firemen Locomotive Engineers	335,800	868,500	38.7
1920	Miners Carpenters Machinists Railway Clerks Railroad Trainmen Railway Carmen	1,649,000	5,047,800	32.6
1929	Carpenters Miners Railroad Trainmen Electrical Workers* Clothing Workers Painters	1,028,200	3,442,000	29.8
1953	Automobile Workers Teamsters Steelworkers Machinists Carpenters Miners	5,750,000	16,500,000	34.8
1957	Teamsters Automobile Workers Steelworkers Machinists Carpenters Electrical Workers*	6,146,000	18,000,000	34.1

*International Brotherhood of Electrical Workers.

SOURCE: Leo Wolman, *Ebb and Flow in Trade Unionism* (New York: National Bureau of Economic Research, Inc., 1936), for data 1900-1929; U.S. Department of Labor, for 1953 and 1957 estimates. Canadian membership excluded.

gaged in agricultural implement manufacture. The Steelworkers have enrolled thousands in metal fabricating, metal mining, etc.

The growth of the six largest unions is not likely to be any faster than, if as rapid as, the rest of the labor movement. Except for the Teamsters, all have unionized the overwhelming number of employees within their jurisdiction, or even related thereto. Their future expansion is more likely to depend upon the industrial growth of those portions of the economy to which they are attached than upon new organizing drives. Of course, if any of these unions could unionize the white-collar workers in

their industries, a decided expansion in their membership would be possible. That, as we noted, is, however, not likely to occur.

The situation with the Teamsters' Union is different. Not only are there a substantial number of unorganized employees in the distribution and service industries over which the Teamsters' Union has jurisdiction, but the Teamsters' Union has been giving every indication of willingness to invade the jurisdictions of other unions when an occasion arises.

Besides being the country's largest union, the Teamsters are probably the most powerful. If the truck drivers stop work, nothing can move to its destination. Produce and manufactured goods remain at the farm, the plant, the railroad station, the airport, or the seaport. The last step in distribution is the truck drivers. Their strategic location insures the power of their union.

But the Teamsters have other obstacles to fast growth. The malpractices and misuse of power by Dave Beck, former president, James Hoffa, his successor, and other of their leaders has alienated them to a large extent from the public and from the AFL-CIO leadership. The bad publicity resulting from widespread revelations of graft and corruption in their leadership has certainly not only hurt their chances of rapid expansion but also carries with it the threat of Congressional action to curb their activities in general. Slow growth would appear to be the best the Teamsters can hope to achieve for some years to come.

Will other unions displace any of the Big Six in size? Probably not soon because only textile and white-collar unions have the potential, and their progress, for reasons noted, is likely to be very slow.

Labor in Politics

American unions were never completely unified on political matters, but the political split was never as deep as was the organizational one in the days of AFL-CIO competition. Except for the Communists, basic union political philosophies do not now differ materially from those of Samuel Gompers, but the tactics have, of course, been modernized.

Gompers' "voluntaristic" philosophy advocated separation of unions and political parties—but not union aloofness from politics. Thus, under Gompers' leadership the AFL avoided involvement with any political party but attempted to throw its weight to any candidate with a pro-labor record or platform, and against those considered antilabor regardless of the party to which the candidate belonged.

The political program of most American unions has not varied significantly from the Gompers' tradition. True, the CIO has always been more active in support of political candidates and policies than the AFL,

but the difference is one of degree rather than of kind. In 1943 the CIO organized a Political Action Committee, which played an important role in re-electing Mr. Roosevelt for a fourth term. Although the PAC did almost become an appendage of the Democratic Party, it did support some Republicans. In essence, its methods amounted merely to a streamlining of the Gompers "reward your friends and punish your enemies" doctrine. For the PAC concentrated on electing candidates who had pro-labor records and avoided any attempts to found a labor party. Even in New York State, where the American Labor Party has existed since 1935, the ALP served, until its capture by the Communists in 1944, primarily as an endorser of candidates from the other parties. The Liberal Party, organized by non-Communists who left the American Labor Party in 1944, has served the same purpose, although in city elections the Liberals have run their own candidates.

After the enactment of the Taft-Hartley Act in 1947, the AFL organized its Political Education League, which has since carried the AFL's political message to AFL members and has helped to get out the labor vote. In 1952 the AFL made history by officially endorsing a presidential candidate, the Democratic nominee, Adlai Stevenson. Stevenson also enjoyed CIO official support but was defeated by Dwight D. Eisenhower.

Despite this labor opposition, the Eisenhower administration appointed Martin Durkin, president of the AFL Plumbers' Union, as Secretary of Labor. After 8 months, however, Durkin resigned, charging that the President had first agreed, then declined, to go along with some compromise amendments worked out by Durkin and others to amend the Taft-Hartley Act. Following this resignation, AFL and CIO attacks on the Eisenhower administration, which previously had been restrained, increased in intensity, particularly in regard to government curtailment of housing, public power, and other welfare programs long associated with the previous Roosevelt and Truman administrations.

Again in 1956 organized labor, this time merged officially, endorsed the Democratic candidate Adlai Stevenson, who was defeated even more overwhelmingly by Mr. Eisenhower than in 1952. However, several important labor leaders did endorse Mr. Eisenhower. Although the AFL-CIO is much more closely associated with the aspirations of the Democratic Party than it is with the Republicans, there is no sign that labor will lose its identity or that the Democratic Party, in which Southern conservative elements are an important factor, will become a labor party as such.

The most successful exponents of the Gompers "reward your friends and punish your enemies" position have been the railroad unions, which

have built the most effective political lobby of organized labor in America. Operating through a co-ordinating body, the Railway Labor Executives Association, to which most railway unions belong, railway labor has pursued an adroit policy which permits the support of any legislator, no matter what party and no matter how the legislator votes on general issues, so long as he votes "right" on railway labor issues. With a membership of 1 million, which is strategically located in almost every Congressional District, and which usually votes in a body in the primaries where small numbers count most effectively, railway labor has justly earned the reputation of delivering the votes. This fact, plus the importance of railway labor in many rural areas, which is traditionally "antirailroad," has won railway unions the support of legislators whose general record is conservative and antilabor.

In turn, by supporting pro-railway labor legislation, conservative legislators are assured of vital labor support without alienating a sizable part of their conservative constituents who are not adversely affected by such legislation, as they would be by general pro-labor legislation. As a result of this policy, railway labor has achieved a favored status in social security, in collective bargaining legislation, as well as a position which has not worsened no matter which of the major political parties is in power.

The main criticism of the traditional Gompers policy is that it permitted a wide latitude of thinking as to what was a "pro-labor" record. In many campaigns, labor leaders have taken opposing sides. Even under the New Deal, such labor chiefs as John L. Lewis, president of the United Mine Workers, and William Hutcheson, president of the Carpenters, supported Republican candidates. Unified labor support of one party cannot be secured when neither of the two great political parties contains all liberals or all reactionaries; nor when organized labor itself is split.

The only union group in recent years to attempt the formation of a separate political party has been the Communists. According to the late CIO President, Philip Murray, Communists were principally responsible for forming the Progressive Party in 1948, which sponsored the presidential candidacy of Henry Wallace. Only the Communist-dominated unions backed Wallace in 1948, and within 2 years Wallace himself had disavowed the Progressive group. By 1952 the Progressive Party had lost whatever popular appeal permitted it to draw just over 1 million votes in the 1948 election. In retrospect, the 1948 activity of the Communists in the Progressive Party appears to have been an attempt to win the balance of power in American politics and thus to influence American foreign policy in favor of the Soviet Union. American unionists, like their

countrymen in other walks of life, were not fooled by the Communists, who failed in their endeavor.

Labor Unions and Politics in the Future

Despite their increased interest and activities in politics, American unions still rely primarily on economic action—that is, collective bargaining—rather than upon political action as a means of achieving gains for the membership. This is likely to continue to be the case if only because bargaining has been so successful. Having won so much through bargaining, there is no reason why unions would want to shift their tactics. At the same time, conscious that bargaining is aided by a favorable political climate, union officials are not likely to neglect political activities along the traditional lines of aiding those whom unions believe will be helpful to them.

In this respect, unions are not different from corporations. Corporation officials utilize primarily economic weapons, both in their dealing with labor and in the other facets of their business dealings. Like union officials, corporation officials are conscious of the political world about them and of the desirability of a favorable political climate. Corporation officials have been very prominent in the Eisenhower administration. This is only natural, since their money and support were very prominent in the Eisenhower campaign, both to obtain the Republican nomination and the election. Lest it be assumed that labor unions are the only special interest group active in politics, it is well to remember not only the activities of businessmen as here illustrated but also those of farm organizations, the American Medical Association, and other professional societies, as well as a host of others, all of whom are laboring hard for a favorable political climate in which to carry on their basic economic activities.

Because America remains a land of plenty, replete with opportunity, its labor unions remain conservative. Today, unions are as uninterested in socialization of business as they were in 1900. Likewise, the aims of American unions have not changed over the years. The words of Samuel Gompers could describe the basic aims today as they could 50 years ago—"the best possible conditions obtainable for the workers . . . more—always more." If this sounds greedy, let us reflect that labor, no more than any other group, wants more wages just for wages alone. Rather wages are desired for what they can buy in material satisfactions and the future good life for the worker and his family.

In refusing to accept the highest standard of living ever achieved by workers anywhere as being beyond improvement, American labor is following the traditional footsteps of its forefathers. America has been built

by those who refused to be satisfied with the best that existed, and then did better. This applies to worker, businessman, farmer, and professional man. The worker who wants more wages, the businessman who goes after record profits, the farmer who seeks higher corn prices—all are acting like perfectly normal Americans.

QUESTIONS FOR DISCUSSION

1. Discuss the characteristics of the American environment which have shaped the policies and activities of American unionism.
2. If the Knights of Labor were formed today along the same lines as it existed in the nineteenth century, could it survive? Why, or why not?
3. The Teamsters' Union is aiming at 3 million members by 1960. Do you think it will succeed? What are some of the factors in its favor? What are those against it succeeding?

SUGGESTIONS FOR FURTHER READING

BROOKS, GEORGE, *et al.* (eds.). *Interpreting the Labor Movement*. Industrial Relations Research Association, 1952.

A symposium examining theories of unionization and the role of unions.

DULLES, FOSTER RHEA. *Labor Movement in America*. Rev. ed. New York: Thomas Y. Crowell Co., 1955.

An interestingly written one-volume history of trade-unionism.

Under the guidance of your instructor, read a book or a series of articles about unionism and industrial relations in a particular industry. How does the growth of unionism in the industry which you studied compare with the growth of unionism in the country as a whole?

Chapter 3

UNION STRUCTURE AND GOVERNMENT

The governments of American unions, like those of nations, run the gamut from democracy to dictatorship. The type and structure of a union organization depend upon a wide variety of industrial and personal factors, and may have important repercussions both on union policies and on the economy as a whole. A knowledge of union structure and government is an essential background to the economics of labor.

ORGANIZATIONAL STRUCTURE

Union organization usually commences on either a "craft" or "industrial" basis, but it soon expands beyond these limitations. Craft unions are those which are organized on the basis of an occupation or trade regardless of industry. Thus the International Brotherhood of Electrical Workers takes into membership building-trade electricians, railroad shop electricians, shipyard electricians, and electricians wherever else they are employed.

In contrast, an industrial union welcomes into membership employees within an industry regardless of their occupations. The jurisdiction of the United Automobile Workers' Union includes all workers in and around automobile plants, whether janitor, electrician, tool and die worker, assembly worker, or whatnot.

Today there are very few "pure" craft unions and not many industrial unions which have confined themselves to either a pure industrial setup or to a single industry. The 500-member American Wire Weavers Protective Association, whose members work on fourdrinier wire used in paper making, is one example of a strictly craft organization. Other original craft unions have expanded on an industrial basis or have amalgamated with other craft groups. Thus the Brotherhood of Electrical Workers also organizes workers in industries like radio, television, and electrical appliances and products on an industrial basis; the Carpenters'

Union does likewise with furniture and lumber workers; and the Machinists' Union organizes industrial locals of aircraft workers. The Bricklayers' Union retains its craft character, but it now includes not only bricklayers and masons but related craft groups of cement workers and plasterers. The plumbers and steamfitters likewise have joined together in one union instead of remaining separate craft organizations.

Industrial unions also soon reach out beyond their original scope or group. The Amalgamated Clothing Workers started out in men's clothing, then branched out into cotton garments, laundries, and cleaners. Later, when men's clothing factories began making women's suits, the Amalgamated retained jurisdiction. Since rates were lower in some men's clothing factories than women's garment factories, this was the cause of no little ill feeling between the Amalgamated and the Ladies Garment Workers' Union. Similarly, the Automobile Workers' Union soon expanded from the automobile industry into agricultural equipment (manufacturers of which, for example, International Harvester, also make trucks) and then into the aircraft industry (automobile companies have often made aircraft parts). In addition, the Automobile Workers' Union has organized the tool designers, tool and die craftsmen, and other skilled trades working in shops doing business with the automobile industry.

DETERMINANTS OF UNION STRUCTURE

Many factors determine the structural character of union organization, but most important are the practical needs of organization in the light of technological and market developments. Often the factors are difficult to separate.

Technological and Market Developments

Early organization was on a craft basis. The skilled workers could withdraw their labor and secure their demands without the aid of the unskilled. Technological development and the expansion of the market made this increasingly difficult in many industries. When skilled workers struck, they found that their helpers could take their place; or they found that related crafts or industries in other parts of the country took their place in filling the demand for the product.

As these experiences occurred, skilled workers in many industries were forced to realize that their organization could not be effective on a narrow basis. This was accentuated by the wide American market and by technological developments. The size of the American market permits division of labor to a fine point, and technological development substi-

tutes machines for skilled as well as unskilled labor. Both the expanding market and the growing technology permitted rapid substitution of untrained labor for skilled workers, or at least greatly reduced the importance and percentage of skilled labor to semiskilled and unskilled in the factory labor force.

In the light of these developments, organizational structure had to change to survive. Because the leaders of the AFL feared the influx of new members outnumbering the craftsmen more than they wanted to organize, they attempted to keep their craft structure (already modified by circumstances in many cases by 1932) rather than to organize the steel, automobile, or rubber industries on an industrial basis. The revolt of the CIO unions forced the AFL leaders to yield to organizational realities, but only after the AFL had lost several basic industries to the CIO and the labor movement had been split.

Changing organization patterns continue to be affected by changing market and technological developments. For example, in 1952 the Brotherhood of Blacksmiths, Drop Forgers and Helpers called it quits as an independent organization and merged with the boilermakers and shipbuilders. When the Army abandoned the cavalry, and technological developments effectuated significant new changes in drop forges, what had begun when Henry Ford pushed Old Dobbin aside was finished. The Blacksmiths Union went the way of several old craft unions which technology had outdated—it took its remaining members into a related organization. Before so doing, it had evolved from a union of just one craft—blacksmiths—to an organization including both blacksmiths and skilled forge workers. Later the helpers of the craftsmen proved that they could replace the craftsmen in case of strike, so they were brought into the union. More recently, all forge workers were unionized; finally came merger with a larger union in allied fields.

The NLRB and Union Structure

Since 1935, a significant factor in organizational structure has been the rulings of the National Labor Relations Board under both the Wagner and Taft-Hartley Acts. Section 7 of the Taft-Hartley Act states that employees "shall have the right . . . to bargain collectively through representatives of *their own* choosing. . . ."¹ In other words, the choice of the workers, not that either of employers or union officials, now became the governing factor in union representation.

Section 7 thus had the effect of removing jurisdictional rules from the hands of union leaders and placing them in the hands of the workers

¹ See Chapter 23 for a fuller discussion of these laws. Emphasis above supplied.

themselves and the National Labor Relations Board. For example, if a group of textile workers wish to be represented by the Rubber Workers' Union, and if the leaders of that organization are agreeable, they can petition the National Labor Relations Board for an election. The NLRB then decides who is eligible to participate in the election and holds it. If the workers vote for the Rubber Workers' Union, it is that union which is the legal representative of the workers for collective bargaining with which the employer must deal regardless of what union jurisdictional rules provide.

In actual practice, of course, unions generally respect jurisdictional lines. For the Rubber Workers' Union to take on a textile group would not be likely because it is not familiar with, nor equipped to handle, the special problems of textile workers.

As noted in Chapter 2, the constitution of the AFL-CIO recognized the realities of jurisdictional control under the NLRB by, in effect, giving organized labor's sanction not only to whatever jurisdiction a member union had successfully organized but also to contests among member unions for newly organized groups where two or more unions could demonstrate historical interest. The principle of exclusive jurisdiction as determined by the AFL died, in fact, in 1935 when the Wagner Act became law; the AFL-CIO recognized its burial in the merger agreement 20 years later.

The AFL-CIO constitution did not end either jurisdictional difficulties among unions or jurisdictional conflicts between the rules of the merged federation and the Taft-Hartley Act as interpreted by the National Labor Relations Board. To settle quarrels within the Federation itself, a board, headed by an outside impartial umpire, was established as part of the "no raiding" agreement which preceded the merger. This board, called the "Cole Board," after the umpire, David Cole, has had considerable success in reducing union raiding and jurisdictional disputes.

Where, however, a raid wins the sanction of the NLRB, even the raiding union cannot call it off. In a case decided in August, 1957, the NLRB certified the Operating Engineers' Union as a bargaining agent for a group of stationary engineers, although this group tried to withdraw from the case. At the request of the Operating Engineers, the NLRB ordered an election among stationary engineers at a textile company where hourly employees, including the engineers, had been represented by the Textile Workers' Union for 20 years. The Textile Union protested to the AFL-CIO Council, which ordered the Engineers' Union to withdraw from the case. The latter complied and joined with the Textile Union in

asking the NLRB to dismiss the case. Meanwhile, an election had been held and been won by the Operating Engineers. The workers involved also opposed the withdrawal petition. So the NLRB certified the Operating Engineers' Union over its own objections because the law states that the workers involved, not the union, shall determine the bargaining agent.

The decisions of the National Labor Relations Board affect union structure in other ways. For example, if the NLRB declines a union request to separate skilled from unskilled workers, the petitioning union has the choice of opening its doors to the unskilled as well as the skilled or facing the possibility of losing the right, as a result of the adverse votes of the unskilled, of representing either skilled or unskilled. Moreover, unions have been forced to take cognizance of the fact that once they are certified by a government agency as an exclusive bargaining agent, they must represent all the workers within the bargaining unit without discrimination.

This does not mean that craft unions have to take on an industrial character because of rulings of the National Labor Relations Board. The NLRB, as we shall point out in Chapter 23, has always been careful to maintain the rights and jurisdiction of craft unions where that is desired by workers and where the craft is clearly a distinct work group. Moreover, in a number of industries, such as shipbuilding, railroads, air-transport, printing, and building, organization has remained on a predominantly craft basis. The craft unions in these industries have, however, in many cases widened their jurisdictions to include several classes, instead of one craft of workers.

Deciding Jurisdictional Claims

In many situations, union jurisdictional lines are not clear. In an industry organized along craft union lines, as the building industry, technological change and the substitutability of one material for another lead to conflicting jurisdictional claims and to jurisdictional strikes—that is, strikes of one craft against another craft doing the work. On the outcome of such strikes depends which group of workers will do the work and perhaps which union will grow in strength and size. Often in history, conflicts over jurisdiction have led to eventual merger of the contesting organizations. In any case, the outcome of jurisdictional disputes has a significant effect on the structures of the organizations involved, for the structure conforms to the needs of the various groups in the union.

A dispute over which union will represent workers is different from a jurisdictional dispute since no matter which union wins out, the same

workers will continue to work. Such a dispute is commonly decided by the National Labor Relations Board election procedure. In such instances the accidents of location often determine the result and therefore the union structure.

Consider, for example, a metal fabricating company. If it is located in Detroit, where the United Auto Workers is strong, it will probably be represented by the UAW; if it were in Pittsburgh, the United Steelworkers would probably win bargaining rights; in Minneapolis, the Machinists, etc. In each case, the friends and relatives of the plant workers are likely to be in the dominant union of the area, and so that union is likely to be chosen by the workers in the metal fabricating plant to represent them. Union structure then develops according to the needs of members and the organization.

DETERMINANTS OF UNION GOVERNMENT

As a union grows and takes into membership workers with different interests, not only its structure but also its government are shaped to meet the needs of the members and to take advantage of the experience which develops. For example, the division of the membership along craft, industry, racial, or geographical national lines often results in semi-autonomous division within unions and in special provisions for representation for specific groups. Thus, the Textile Workers' Union has separate departments for its cotton textile, woolen and worsted, rug and carpet, dyeing and finishing, and hosiery branches. Similarly, the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees is careful to elect officers who represent the various crafts. Failure to do so in the 1920's led to a temporary secession of the expressmen.

The three-man local grievance committees of southern West Virginia mines are often composed of one native white, one immigrant from south-eastern Europe (or descendant thereof), and one Negro, thus giving representation to the "judicious mixture" of races and nationalities which employers in this area purposely employed at one time to forestall unionization.

Traditionally union vice-presidents and regional directors are elected with due regard to geographic representation. In addition, most unions have a special officer, either vice-president or regional director, for Canada. This process of satisfying various interests and areas is very similar to the method adopted by the federal government in handing out patronage.

Administrative Determinants

Practical administrative problems also determine union regulations. For example, unions discovered at an early date that strike control would have to be centralized to some extent if the unions were to be preserved. This proved necessary to prevent "quick on the trigger" locals from striking on the slightest provocation and thus costing the union and members thousands of dollars for strike benefits, legal and publicity charges, etc. Strike control by national unions takes two forms. In many cases, no strike can be called without approval of the national union executive board. In others, any strike which is called without national union approval deprives the strikers of strike benefits or other such national union help.

The frequency of conventions in many unions is determined by financial situations. The growing tendency on the part of unions to have conventions once every 2 to 5 years instead of annually has been prompted in many cases by the high cost of conventions which may run well over a million dollars. In recent years about the only thing which President Walter Reuther and his opposing factions within the United Automobile Workers could agree upon was the desirability of holding conventions biennially instead of annually. The high cost of conventions brought agreement on this subject. Nevertheless, the rank and file, desirous of "keeping an eye on the bureaucrats," voted down such proposals at UAW conventions until 1952 when the advocates of the annual convention lost out.

The provision that the expenses of local delegates be paid from national treasuries is likewise dictated by financial considerations because many small locals cannot afford the cost of adequate representation if a convention is to be held in a distant place. However, less than 20 per cent of the national union constitutions examined provide for the payment of expenses by the national.

Effect of Rival Unionism

The development of rival unionism on a mass scale since 1936 has materially affected union government. In order to protect themselves against secession of locals, some unions, for example, the Glass Bottle Blowers Association, vested their executive officers with extraordinary power to expel or suspend local officers who have been flirting with rival unions. In many other cases the advent of rival unions forced existing unions to open their doors to members previously barred. For example, a number of unions which admitted only skilled workers (Flint Glass Workers and the International Molders and Foundry Workers' Union of

North America) admitted unskilled workers in order to prevent the latter's organization by the CIO. A number of other unions, such as the Hotel and Restaurant Workers and the Commercial Telegraphers' Union of North America, removed bars to Negro membership because of the threat of rival unions. On the other hand, the existence of a union with discriminatory racial policies has often caused a rival union which ordinarily does not discriminate to soft pedal its equalitarian program in order not to alienate the dominant white membership.

The Effect of Legislation and Court Decisions

Union government, like union structure, is often shaped by laws or the decision of administrative bodies or courts. For example, the adoption of state antidiscrimination legislation has induced a number of unions to delete racial bars from their constitutions. Decisions of the National Labor Relations Board, placing certain groups of workers in bargaining units, have compelled unions to alter their admission policies, as we have already noted. Likewise the courts have ruled that union leadership did not have authority under the union constitution to take specific acts—for example, to expel a member. In a number of instances the union has thereupon amended its constitution, granting the officers additional authority.

Imitative Elements

Many union constitutional provisions result merely from the fact that the writers of the constitutions copy similar provisions from the constitutions of older organizations. The constitution of the first permanent union, the Typographical Union, was copied from that of the Right Worthy Grand Lodge of the Independent Order of Odd Fellows, and then gradually it was amended to suit the needs of the union. Likewise, nearly all the railroad union constitutions bear a strong resemblance to the constitution of the oldest—the Brotherhood of Locomotive Engineers.

Power Elements

A number of union constitutional provisions can only be explained by the desire to increase the power of given individuals or groups. Thus, the provision which was in the constitution of the Air Line Pilots Association prior to 1948, and which gave one vote to each pilot and one vote to every two co-pilots, was clearly designed to insure pilot control. In the same vein for many years the International Brotherhood of Electrical Workers gave one vote per member in conventions to locals of craftsmen whose members are designated as Class A, but only one vote

per hundred members to industrial locals whose members are designated as Class B members. The Carpenters' Union is even more discriminatory against industrial locals, permitting them only one vote per local in conventions as against one vote per member for craftsmen. These provisions were an important factor in the formation of rival organizations.

Other union provisions are obvious instruments of individual or minority faction control. The vast powers given to the presidents of the United Mine Workers and the American Federation of Musicians as discussed below are cases in point.

How these various determinants of union government work out in practice can be better understood by looking at the operations of union government at the national, intermediate, and local levels.

THE NATIONAL OR INTERNATIONAL UNION

The "top" organization of American unions is the national or international union. The officers of the national unions are selected either by a convention or by referendum; or by a combination of the two, whereby the convention nominates with the actual contest being determined by a referendum of the entire membership.

Union constitutions generally provide for representation by local unions in convention on the basis of membership. In order, however, to prevent the large locals from being completely dominant, representation is sometimes on a graduated basis (for example, 1 delegate for every 100 members, 2 for every 300 members, 3 for every 550 members, etc.). In most cases the convention has complete power to amend the constitution and bylaws, although a few unions require some or all such changes to be confirmed or rejected by referendum of the membership.

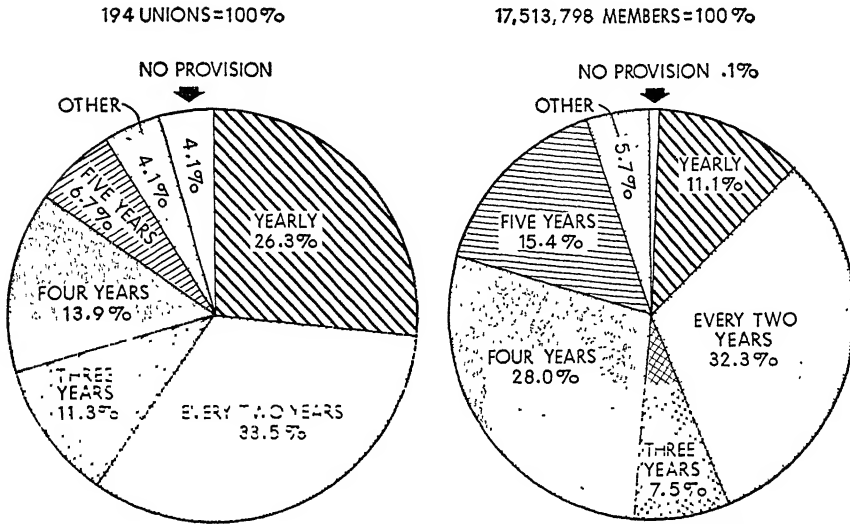
Union conventions are usually held every two to five years, with a tendency toward the longer term especially as the union grows larger and the expense of holding a convention gets correspondingly greater (Fig. 3).

The Referendum

About one fourth of the country's unions elect their officers by direct referendum (Fig. 4). The referendum can be a useful tool in promoting union democracy, where the membership has a tradition of participation and a high sense of responsibility, such as in the case of the International Typographical Union; or where procedures for getting nominated and insuring fair and honest elections are carefully adhered to. A nonprofit organization, the Honest Ballot Association, is utilized to supervise bal-

FIGURE 3

FREQUENCY OF UNION CONVENTIONS



SOURCE: National Industrial Conference Board, Inc., *Handbook of Union Government, Structure and Procedures*, 1955, chart 6.

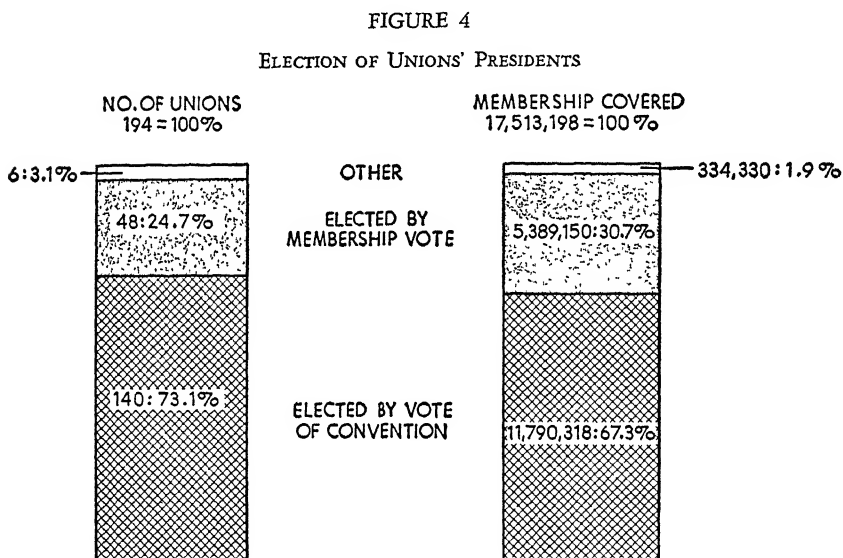
lotting in many unions. The National Maritime Union, with its widely scattered membership, has achieved good member participation in ballots conducted by the Honest Ballot Association. In 1957 a relatively unknown steel worker, Donald C. Rarick, polled 223,000 votes against 404,000 for the well-known United Steelworkers president, David J. McDonald. Rarick's support came largely from members protesting against McDonald's "steamroller" tactics at the preceding union convention. There, a handsome salary increase had been voted to officers, including McDonald, after discussion had been cut off and considerable pressure exercised by officials favorable to this action.

Although a referendum can, as in the case of the Steelworkers, permit a free expression of opinion denied at a convention, it is no real substitute for a convention. Most union members do not take an interest in referendums so the decisions made as a result of them have largely been the decisions of active minorities who took the trouble to vote. And, in the second place, the referendum denies the membership sufficient opportunity for the type of discussion of the pros and cons of issues which features many union conventions. Finally, substituting referendums for conventions permitted a few unions, such as the Tobacco Workers' International Union and the International Hod Carriers', Building and Common Laborers' Union, to go for periods of over 30 years without holding

a convention which, in turn, removed the incumbent officers from effective challenge by potential opposition.

National Union Officers

Most national unions are officered by a president, a secretary-treasurer, occasionally a director of organization, and one or more vice-presidents. The number of vice-presidents will be determined by many factors,



SOURCE: National Industrial Conference Board, Inc., *Handbook of Union Government, Structure and Procedures*, 1955, chart 5.

e.g., whether regional directors bear that title. In addition, most unions have a national executive board which is theoretically the top governing body between conventions. Members of the executive board are often the regional directors or vice-presidents.

In most unions the chief executive officer is the president, but in some instances other officials overshadow the president. The latter may be historical accident—e.g., following the British system, a few of the older unions, such as the Brewery Workers prior to 1948 or the Amalgamated Meat Cutters and Butcher Workmen, designate the secretary-treasurer as the chief executive officer.

Although the president, or whoever the chief executive officer of the union may be, is almost always technically subordinate to the executive board, more often than not he is likely to control it. There are, of course, exceptions. Thus, until his slate of candidates won control of the United Automobile Workers' Executive Board in the 1948 convention,

President Walter Reuther of that union was almost completely hamstrung by an antagonistic executive board, which had effective power to curb his activities.

In most cases, however, the constitutional power of the union's chief officer is very great, and if he is a forceful personality he may reduce the executive board to complete subordination, as John L. Lewis has done in the United Mine Workers.

Table 7 divides 115 international unions into three groups according to the powers granted in the union constitution to the chief executive officer. In general, "routine power" means that the officer is under the general jurisdiction of the chief executive board; "considerable power" indicates few checks on executive conduct; "moderate power" is the intermediate stage between the two. "The tests applied are the extent of appointive power, the limitations placed on the right to discipline subordinate groups and members, and the checks that exist upon conduct.

TABLE 7
CONSTITUTIONAL POWERS OF CHIEF EXECUTIVE OFFICER IN AMERICAN UNIONS

	NUMBER OF UNIONS			
	Routine Power	Moderate Power	Considerable Power	Total
Former AFL affiliates	13	22	39	74
Former CIO affiliates	14	9	6	29
Unaffiliated unions	3	3	6	12
Total	30	34	51	115

SOURCE: Philip Taft, "The Constitutional Powers of the Chief Officer in American Labor Unions," *Quarterly Journal of Economics*, Vol. LXII (1948), pp. 459-60. By permission of author and publisher.

The divisions are somewhat arbitrary, for there is some difference granted by the different unions even within the three groups."²

The data in Table 7 show a tendency on the part of American unions to grant increasing power to their chief executive officers. The large number of unions formerly in the AFL which fall under the "considerable power" category indicates that as unions grow old the chief officer tends to assume more and more authority. The various reasons for this will be discussed in greater detail when we examine the tenure of national union officers and local union-national union relationships. Suffice it to point out here that the advent of national and regional bargaining, the neces-

² Philip Taft, "The Constitutional Powers of the Chief Officer in American Labor Unions," *Quarterly Journal of Economics*, Vol. LXII (1948), pp. 459-60.

sity to co-ordinate local activities, and the wills of strong individuals have been the important factors in the concentration of union power.

The unions which limit their president to "moderate power" generally permit him to appoint organizers and representatives, interpret the union constitution, exert considerable influence on local unions and members, etc., but he is always subject to some check—most commonly appeal to the international union executive board and to the convention. The effectiveness of this check is, of course, a function of the degree of independence of the executive board. An executive board which is subservient to the president (which is not uncommon) can thus convert moderate constitutional power into considerable actual power.

Unions which endow their chief official with "considerable power" may still place some checks on his actions. Thus the president of the Carpenters' Union has vast authority including "the power to suspend any Local Union, District Council, State Council or Provincial Council for violating the laws or constitution of the union. His action is subject to appeal to the General Executive Board. The president can also consolidate locals, suspend general officers pending trials, and order the disbandment of subordinate bodies he finds acting against the interests of the Union."³

On the other hand, a few officials, notably John L. Lewis, president of the United Mine Workers, and James Caesar Petrillo, president of the American Federation of Musicians, have almost unchecked union authority.

Union presidents who have great authority often hesitate to use it for fear that local unions or individuals may appeal to the courts. The judiciary is, however, loath to interfere in union affairs and more often than not upholds union officials if they act within their constitutional power. The extent of union power can thus be "a dangerous instrument in the hands of fallible men . . . possession of it insulates leaders against criticism and unselfish opposition needed in a world of change. The conduct of John L. Lewis in reducing a once-democratic union to a benevolent satrapy, where he is virtually a law unto himself, is an example of the danger of too much power."⁴

Tenure of National Union Officials

The tenure of national union officials has traditionally been long. Indeed, opposition to national union officials in election contests is likely to be rare. An examination of 764 offices filled in 7 unions between 1910

³ *Ibid.*, p. 468.

⁴ *Ibid.*, p. 471.

and 1941 found that 634 of the officers were uncontested. John L. Lewis has been president of United Mine Workers since 1920; William Hutcheson of the Carpenters from 1915 to 1952; Daniel Tobin of the Teamsters from 1907 to 1952; William D. Mahon of the Amalgamated Association of Street, Electric Railway and Motor Coach Employees of America from 1893 to 1946; and so the list could be extended.

In any election the incumbent has a tremendous advantage. He is already well-known to the membership, and his every action is news. The challenger must make himself known outside of his locality and must have an issue which differentiates him from the incumbent. Patronage, the union journal, and other avenues of communication are controlled by the incumbent. In the fairest of elections the challenger faces heavy odds.

Unfortunately, many incumbents have used patently unfair means to retain authority. In 1926, John Brophy was allegedly counted out by tellers controlled by President John L. Lewis of the United Mine Workers. And when Brophy attempted to continue his opposition to Lewis, the latter secured the expulsion of Brophy and his lieutenants from the Union. No one has dared run against Lewis since then. "In 1936 J. W. Williams allowed his name to go before the convention of the carpenters' union as a candidate for president to oppose the incumbent, W. D. Hutcheson. Soon thereafter Williams was forced out as president of the Building Trades Department, which is dominated by the carpenters' union."⁵

In a few unions, however, contests for the presidency have been the rule rather than the exception. Among these, the International Typographical Union stands out for the number and vigor of officer contests. Only three times since 1898 has the ITU presidency been uncontested, and most elections have been determined by narrow margins. Elections in the much newer United Automobile Workers have been even more bitterly contested. Contests for national union office have also been frequent in the National Maritime Union, the United Rubber Workers, the American Newspaper Guild, and some other of the newer unions, but recently these newer unions have shown signs of developing unitary ruling machines.

Despite the vigor of the competition for office in some unions, the trend is definitely toward long term in office. One official, Joseph Ryan of the racket-ridden International Longshoremen's Association, got himself elected for life, although he was later forced to retire because of "ill-health." William Hutcheson went Ryan one better. He was president of the Carpenters from 1915 to 1952, when he stepped down to let his son, whom he had thoughtfully made vice-president some years before,

⁵ *Ibid.*, p. 251.

succeed him. Dan Tobin, president of the Teamsters from 1913 to 1952 had several sons on the union payroll, but none was a match for Dave Beck who succeeded to the presidency when the elder Tobin passed over the reins.

Whether a union selects officials at conventions where delegates vote or by referendum of the membership does not appear to make any difference in insuring or preventing opposition. The referendum is also utilized by the International Typographical Union whose officers have been unopposed for election only three times since 1898. Similarly, the vigorous democracy that features the United Automobile Workers has not been impeded by election of officers via convention delegates. On the other hand, many other unions, which also elect officers at conventions, rarely have a contest for a national elective office.

An important influence in contesting union positions prior to World War I can be attributed to the vigorous socialist minority in many unions. Rarely in authority, but always on the alert, the socialists and their fellow radicals provided the membership with effective watchdogs whose competition and criticism were ever threats to power-grasping leaders. But they disappeared in the 1920's.

In some unions, however, socialist influence has failed to promote democracy. The Amalgamated Clothing Workers was organized in 1915 under strong radical direction. But Sidney Hillman, its president from its organization till his death in 1946, never brooked any opposition. To a considerable extent, vigorous election contests in some of the new unions, e.g., the United Automobile Workers, have been between "left wing" factions in which Communists have played a major role and "right wing" groups in which non-Communist radicals—not unlike the pre-World War I socialists—have been prominent.

On the other hand, radical influence of any type can claim little influence in maintaining the record of the International Typographical Union. Rather the democracy of the ITU elections appears to be attributable to other factors: a fairly steady membership, local bargaining which limits the opportunities for intervention in the local's affairs by the International officers, and the great interest manifested by the membership in the affairs of the union. In addition the ITU has developed a unique system of political parties which keeps the political pot boiling so that the members' interest is kept high. And the high intelligence and education of the average ITU member stimulates interest in the government of the union.

It must be emphasized that the factors which promote union opposition to long-tenure officialdom in the ITU may be thwarted. The International Printing Pressmen's and Assistants' Union is composed of

printing industry crafts who seceded from the ITU in 1889. Opposition to union officers in the Pressmen's Union has been as infrequent as it has been frequent in the ITU. George Berry was president of the Pressmen from 1907 until his death in 1948. Opposition to him was rare, and when it arose it was quickly discouraged by his effective countermeasures, which included a constitution decidedly favorable to his maintenance of power.

The long-term incumbency of top union officials is not unique in American life. Corporation officials likewise frequently are in power for long terms, and in other institutions the situation is undoubtedly similar. Long-term office holding has its advantages. In industrial relations it may promote stability and understanding between labor and management. A union official who does not fear for re-election may be in a position to act more realistically with management than one who must constantly bear in mind the effect of collective bargaining on his tenure. That experience is a valuable asset, few would deny.

Nevertheless, the advantages of active opposition appear to outweigh the disadvantages. "Regardless of the merits or the capacity of an individual, the need to pass through the gauntlet of a periodic election makes him more responsive to the will of his constituents. Opposition in elections is a means of registering complaints against lazy or dishonest officers or those who fail to carry out the will of the membership."⁶

Appointive Officials

In addition to elected officials, most national unions have a sizable staff of paid, appointed personnel. They include two groups: the specialists or professionals, and the international representatives. The former are the lawyers, economists, statisticians, research and educational directors, etc., which modern trade-union organizations must employ in order to engage in what has become the highly technical business of running a union and engaging in collective bargaining with management. The latter nearly always come from the ranks of union members.

Professional employees of unions sometimes become key figures in union administration or collective bargaining. This is especially true of lawyers. Ralph Helstein assumed such prestige for giving free legal advice to workers during the depression and later as legal adviser of the former CIO Packinghouse Workers of America that in 1946 he was elected president. Usually, however, the lawyer remains in the background as a chief adviser of top officials. And if these officials fail to secure re-election, their lawyers and other professional advisers are usually swept out of office by the new administration. However important the advice of

⁶ *Ibid.*, p. 264.

professionals is to labor leadership, that advice can always be purchased as well from those whose loyalty is above question as from those who served the outgoing administration. With extremely few exceptions, professional personnel have discovered that working for a union permits even less deviation from the official administration line than does working for government or business.

International representatives have three main functions: first, they are assigned to organize unorganized shops in the union's jurisdiction; second, they assist local unions in negotiations and collective bargaining; and, third, they act as political representatives of those responsible for their appointment.

The first of the international representatives' functions is self-explanatory, but the other two require further explanation. Much has been said and written about "interference" by national union officials who prevented local unions from settling controversies except on terms dictated by the national union.

More frequently, however, the national union is a force for peace. Its officers know the costs of strikes and its staff builds up prestige by successful, peaceful settlements. Local union officers often are too fearful of the consequences of their actions and too inexperienced. Frequently, the local officers "get out on a limb" from which they cannot rescue themselves. At this point, the international representative can step in and use the prestige of the national union to sell the membership on the fact that the local leaders have secured a very good deal despite the fact that it is less than was promised.

The collective bargaining duties of the international representative may also include a wide variety of assignments which service local unions. In performing these duties, the international representative meets many union officials and members. And through these contracts, he engages in his political function.

International representatives have little job security, although they may win it for the rank and file through collective bargaining. Theirs is a political appointment (which does not cast aspersions on their abilities), and they must aid the political fortunes of those who appoint them if they are to retain their jobs.

The merger of the AFL-CIO added additional insecurity to the jobs of the international representatives employed directly by the federation since the combined organization, as is the case in any merger, does not need a staff equal to the staffs maintained by both groups prior to the merger. In the latter part of 1957 these AFL-CIO organizers, fearful of their future, formed a union of their own to bargain with the federation

about wages and job security. After duly deliberating their request for recognition, the AFL-CIO Executive Council rejected recognition on the grounds that international representatives, unlike office or clerical employees, are part of the management of the AFL-CIO and therefore not eligible to join unions.⁷

The power of patronage in government is always an important weapon in the hands of the incumbent. So it is in a union. A union official who gave no heed to politics would not last long in office. He must make friends in order to assure his re-election. One of the best ways to do that is to appoint people to jobs who have contributed to his success, and who will continue to work for his interest. The international representative is thus the political emissary of the person responsible for his appointment. For basically the union is internally a political organization. It could not be otherwise if it is to be in any way democratic. And no democracy or dictatorship has ever been managed without "political machines" built upon a patronage foundation.

INTERMEDIATE UNION GOVERNMENT

To co-ordinate the activities of local unions, and to act as an intermediary form of government between the local and national, most unions have established what are termed regional offices, district councils, joint boards, etc. In industrial unions the regional office is the most common. Its jurisdiction varies with the concentration of the industry. For example, the state of Michigan is divided into numerous regions by the United Automobile Workers, and the rest of the country has proportionally many fewer because the industry is concentrated in and around Detroit. Similarly, the districts of the United Mine Workers are contiguous with the various coal fields; those of the United Steelworkers are heavily concentrated in the Pittsburgh-Ohio Valley area; and those of the United Rubber Workers follow the concentration of the rubber industry in Akron, Ohio.

Building-trades unions, which are organized on a craft basis, frequently have all local unions in an area represented in a co-ordinating district council. The garment unions call a similar organization a joint board; railroad unions generally co-ordinate their locals on a single railroad in what they call a system federation.

Whatever the name, the general purpose of these intermediate forms is the same: co-ordination of local union activities and joint action of locals in dealing with management. Generally, the regional office

⁷ *Daily Labor Report*, July 7, 1957.

is headed by an official elected either by the entire union membership or by the membership of the district or region only. In some unions, regional chiefs have the title of vice-president; in others, such as the building trades, the head of the district council may be merely the secretary-treasurer of that council. In any case, the regional office is an important union position which many local union officials covet. The turnover in regional officers is less frequent than in the local officers, and the former jobs carry considerably more prestige in most instances than do local offices.

Regional officers of unions sometimes have a paid staff of organizers or regional representatives, and in some unions they also include a professional staff of lawyers, statisticians, educational directors, etc., whose functions are similar to personnel attached to the international union offices.

THE LOCAL UNION

The government of unions may be likened to that of the American nation. At the bottom of the structure is the local union with functions somewhat similar to the municipality. In the intermediate stages are union regional offices, joint boards, or district councils, which are comparable to the states. And at the top is the international or national union, which compares with the federal government.

The local union is the part of union structure which the member contacts directly. The conduct of affairs on the local level is thus frequently the means by which the member judges his union. Like the government of municipalities, there is much in local union government which is heartening to those interested in democratic ways, and much that is unsavory, and the latter, as in municipal affairs, is most often attributable to the failure of the citizenry, or members, to concern themselves with the conduct of their organization. In short, local union government, like municipal government, too often depends on the character of the small minority who are willing to bear the burden of operating the organization.

Local Jurisdiction and Size

The jurisdiction and size of local unions do not follow a fixed pattern. Most commonly, the local has jurisdiction over a single plant, and thus the size of its membership depends upon the size of the plant. The world's largest local is No. 600, United Automobile Workers, which has jurisdiction over the 60,000 workers employed in the River Rouge (near

Detroit, Michigan) plant of the Ford Motor Company. Other one-plant locals have only 10 to 100 members.

There are, however, many variations from the one-plant local. Craft union locals commonly have jurisdiction over an area. Thus, the Bricklayers' Local No. 1 of Louisiana is composed of all union bricklayers in New Orleans. In larger cities, like New York or Chicago, two or three such locals may divide the jurisdiction.

Local union membership may also be divided on racial or national lines. Thus in many Southern cities, building-trades mechanics are found in separate racial locals. In New York, certain locals of the International Ladies Garment Workers' Union are confined to Italian-Americans. Locals of Mexicans or Orientals are sometimes found in the Southwest and in the Pacific states.

Industries in which average plant employment is small are frequently characterized by multiplant locals. Thus in the Detroit tool and die jobbing shops, which employ an average of less than 25 employees per shop, two United Automobile Workers' locals have jurisdiction—No. 155 on the East Side and No. 157 on the West Side. In such cases one shop is considered too small to function as a unit.

Multiplant locals may also develop for other reasons. A separate local of the United Automobile Workers has jurisdiction over all automobile plant office workers in the Detroit area, apparently because it is thought that the peculiar problems of white-collar personnel are better handled through a centralized local than through the plant locals which contain mainly production employees. A number of unions have amalgamated locals which are quite large, apparently to centralize control. Allegedly this has been a method by which a Communist minority has been able to control large sections of the International Longshoremen's and Warehousemen's Union. Under the amalgamated system, each plant in the large locals is represented on an executive board. Control of the executive board secures control over all plants. By concentrating all their strength on a few small plants, the Communists have won a majority on the amalgamated executive boards and hence have complete control over the local. Other factions in different unions have also used the amalgamated technique to strengthen their position.

Local Union Officers

If a local union is small, it usually cannot afford full-time officials. In such cases, its officers work at their jobs but, by agreement with management, take time off for union business. The union compensates them

only for actual expenses, which include time off from their jobs at the job rate. In many instances, the international union assigns a full-time representative to aid local unions in the conduct of their affairs. The international representative is of special importance where the local cannot afford full-time officers of its own.

The larger local unions usually have one or more full-time officials who are compensated completely from the local treasury. The top-ranking official may be the president, or the latter may be only a figurehead with chief power in the hands of a business agent or manager, or a secretary-treasurer. Custom, accident, and the strength of individuals who have occupied, or are occupying, these positions are the determining factors.

Only the largest local unions can afford appointed officials to assist elected ones. A few of these do, however, have organizers and other "local representatives" on their payroll. Such appointees help organize new shops, assist in negotiating and administering collective bargaining contracts, and aid the union political fortunes of those elected officials who are responsible for their appointment. They function on a local basis similarly to international representatives on a national basis.

Duration of Local Union Office

Most commonly, local officials are elected for a term of 1 year, although a few larger locals have biennial elections. In contrast to the situation in the national union, the turnover of local officials is high. This is especially true in the smaller locals where the leaders and the membership are close and challenges to local leadership do not involve expensive campaigning. On the average, it is not likely that the tenure of local office exceeds 2 to 4 years. Some of the turnover is accounted for by advancement to higher union positions; some by the fact that local union officials often accept managerial positions—for example, become foremen; but most of the turnover is accounted for by the desire of the electorate for a change in administration.

Local union officials often have few compensations for their jobs. Their salaries as a rule are not particularly high, and often not very much in excess of what they can earn as workers. There are, of course, exceptions, with some local officials inordinately overpaid. In the main, however, status is likely to be more important for the full-time official, for full-time union work is more appealing to many than a factory job of equal pay. Against that, however, are the long hours, the necessity to work nights when factory employees are free, and the constant reminder that tenure in office is likely to be short. The fact that most local union officials work hard with little compensation beyond the satisfaction which

they derive from their positions has earned them the respect of workers and neutral observers. One surprised worker who had apparently read of sensational "union graft" attributable to a few union officials wrote, after a local union leader had declined a gift for a service rendered: "I expected to pay off Sam [the local business agent]. . . . He was untouchable, however, and would not take so much as a box of cigars. He wanted my respect, my loyalty, and my support, no more. I was surprised, because I fully expected to have to bribe [him]. . . . My respect for unions . . . commenced when I discovered that union leaders could be sincere, helpful, and friendly fellows. [The local business agent] was not at all like the corrupt 'union bosses' I had imagined."⁸

The Shop Steward

Besides compensated officials, nearly all local unions have shop stewards or committeemen who are the union representatives in the plant. They are usually elected by the group which they serve. These officials work full time at their jobs, but in addition they collect dues, handle grievances with management foremen, and generally look after union affairs in the shop. They carry the union's message and represent the union in its daily contacts with members. Their relations with foremen often determine the type of industrial relations which exists in a plant; for whatever may be union-management relationships at the top level, stewards and foremen are the persons who must carry it out on the shop level where it counts.

Local Union Meetings

The business of the local is generally conducted at meetings which are either called by local officials or are held at stipulated intervals. Unfortunately, these meetings are not, as a rule, well attended. The average union member takes his responsibilities as a member lightly. After a hard day's work, he is much more likely to stay home with his family or to engage in recreational pursuits than to attend a union meeting which may be quite unexciting.

In making light of his membership responsibility, the average union member is a typical citizen. Most of us are little concerned how or by whom our local government is run. Few stockholders of corporations even inquire of their rights, let alone exercise them. The general attitude is to permit affairs of union, corporation, or town to be handled by those willing to do the work. Only in times of crisis is the electorate aroused.

⁸ John Worker (a pseudonym), "My Union—An Inside Story," *Harvard Business Review*, Vol. XXVI (1948), p. 109

Crises may be caused by economic factors beyond the control of local officials; by the rise of another "active minority"; or by malfeasance in office. Interest is then aroused, members take sides, and meetings become well attended. The new group may succeed in a house cleaning, and the local may gain or suffer as a result; but the interest, as in other organizations, is not sustained once the contest ends.⁹

UNION FINANCE

Operating a union in modern American society is an expensive undertaking. Officer and employee salaries, office rent, traveling expenses, postage and other communication costs, publicity, legal and research activities are some of the daily routine expense which must be met. In addition, a reserve must be built up; for a long strike with its increased demands on ordinary services, plus the costs of strike benefits, extra legal and publicity help, etc., can drain the union treasury of several million dollars. The United Automobile Workers strike against General Motors in 1945-46 and the United Steelworkers strikes against major producers in 1952 and 1956 are cases in point.

Dues and Fees

The funds necessary to operate a union and to service its membership come primarily from the monthly dues paid by the membership themselves. In addition, unions derive income from initiation fees and assessments, also paid by members, and from government bonds, property, or other securities in which excess or reserve funds are invested.

In general, the older unions have the highest dues and initiation fees. There are two reasons for this. First, those unions are primarily craft organizations composed of skilled workers. They combine high-earning potential with work-scarcity consciousness. To a large extent, high dues and fees are justified by these unions on the grounds that newcomers should compensate the union which has raised wages and standards in the craft, especially since the present high wages permit "Johnny-come-lately" to pay his share so easily. A high initiation fee also seems to discourage applicants and thus give union men a greater part of the available work. The use of the initiation fee as an exclusionist policy is only feasible if entrance to the trade can be controlled by the union. With a few exceptions, only craft unions can exert such control. An industrial

⁹ For a fascinating story of how an "active minority" runs a professional society, see Oliver Garceau, *The Political Life of the American Medical Association* (Cambridge, Mass.: Harvard University Press, 1941).

union which depends for its bargaining strength on organizing all employees of the industry or firm would defeat its purpose by raising its fees very high.

The second reason why dues and fees tend to be higher in the older unions than in the newer ones is the greater stress by older organizations on union-sponsored benefit systems. Many of the older unions have always paid death benefits, and some also pay disability, old age, and sickness benefits as well. A few, the Big Four railroad brotherhoods in particular, have elaborate life insurance schemes. Dues and initiation fees in such unions are higher because they include the contributions of members to benefit plans.

Welfare programs developed by the newer unions do not directly affect union dues and initiation fees. Usually, these programs are the result of collective bargaining and are paid for either by direct payroll deductions on employees plus an employer contribution or by the latter alone.

After a careful analysis, the National Industrial Conference Board estimated that, in 1955, 194 unions, including 98 per cent of union members in the United States, had an annual income from dues of \$475 million with an additional \$25 million in initiation fees and assessments. (See Table 8.) Although these figures seem high, the average dues are around \$3-6 per month.

Initiation fees are somewhat higher, varying from double the monthly dues to much higher. Many of the older craft unions charge \$100 for an entrance fee, usually payable in installments. Where initiation fees of over \$100 or even \$1,000 have been asked, e.g., in some of the skilled crafts of the movie industry, such fees are actually bars to admission rather than actual charges.

The extent of union assessments varies considerably. Generally, they occur as a result of an emergency expenditure or for an organizing campaign. In 1943 the United Automobile Workers, in a referendum, voted an assessment to help organize the aircraft industry; in 1946 the UAW voted one to defray costs of the General Motors strike; and in 1955 to build up its treasury in case of a strike at one of the major automobile companies—which did not take place. More autocratic unions permit the chief executive officer and/or the executive board to levy assessments, sometimes with limits as to amount and number in a given period, and occasionally without even these safeguards.

Union fees tend to vary somewhat with employment conditions. Usually, craft union initiation fees rise during depressions in order to preserve available work for members and decline somewhat when jobs

TABLE 8

WHAT UNIONS GET FROM THEIR MEMBERS

Union	Declared Membership	Minimum Monthly Dues	Annual Income From Dues (at minimum)	Union	Declared Membership	Minimum Monthly Dues	Annual Income From Dues (at minimum)
Actors Equity	6,695	\$2 00	\$160,680	NMU	43,500	\$5 00	2,610,000
AFTRA	20,000	No minimum		Masters, Mates, Pilots	9,000	\$4 00—\$5 00	432,000
Musical Artists	2,000	\$2 50—\$13 33	60,000	Meat Cutters	250,000	75¢	2,250,000
Chorus Equity	4,500	\$1 50	81,000	Mine, Mill	100,000	\$1 00	1,200,000
Screen Actors	8,000	No minimum		UMW	600,000	\$4 00	28,800,000
Agricultural	8,500	\$1 50	153,000	Molders	84,000	\$2 00—\$3 50	2,016,000
Pilots	9,500	\$5—\$25	570,000	Musicians	248,109	Locals determine	
Airline Communications	1,500	\$2 00	36,000	Newspaper Guild	27,000	\$1 50	486,000
Asbestos Worker	8,000	Locals determine		News Deliverers	4,022	\$7 50	361,980
UAW-CIO	1,418,117	\$2 50	42,543,510	Office Employees	50,000	\$2 00	1,200,000
UAW-AFL	100,000	\$2 00	2,400,000	Oil, Chem & Atomic	162,000	\$2 00	3,888,000
Bakery Workers	172,000	\$1 85—\$2 70	3,818,400	Packinghouse	132,000	\$2 00	3,168,000
Barbers	70,000	\$3 00	2,520,000	Painters	208,189	25¢—\$3 00	624,567
Barber & Beauty	5,000	\$2 00	120,000	Papermakers	74,000	Locals determine	
Boilermakers	150,000	\$2 25—\$2 75	4,050,000	Paperworkers	50,000	\$1 50	900,000
Bookbinders	54,000	Locals determine		Pulp, Paper, Sulphite	148,853	\$2 00	3,572,472
Brewery	62,000	\$2 00	1,488,000	Pattern Makers	12,000	\$3 00	432,000
Bricklayers	100,000	No minimum		Photo Engravers	16,032	No minimum	
Brick & Clay	23,000	\$3 00	828,000	Plasterers	60,000	Locals determine	
Bldg Service	205,000	\$2 00	4,920,000	Plumbers	201,343	\$2 25	5,436,261
Carpenters	750,000	\$1 25	11,250,000	Postal Clerks—AFL	115,000	Locals determine	
Chemical Workers	91,001	\$2 00	2,184,024	Postal Clerks—Ind	38,000	Locals determine	
Cigar Makers	10,000	\$1 50	180,000	Postal Supervisors	19,887	Locals determine	
Cleaning & Dye	20,000	Locals determine		Postal Transport	28,000	\$5 75	1,932,000
Clothing Workers	385,000	Locals determine		Dist Postmasters	20,000	\$4—\$8 a year	960,000
CWA	330,000	Locals determine		Potters	30,000	No minimum	
Coopers	4,200	Locals determine		Pressmen	98,000	Locals determine	
Die Sinkers	4,000	\$2 50—\$3 00	120,000	Radio Assn.	2,000	\$10 00—\$16.67	240,000
Distillery Workers	25,000	\$2 50	750,000	RR Signalmen	15,500	\$2 00	\$372,000
IUE	317,655	\$2 50	9,529,650	RR Telegraphers	66,000	75¢—\$1 50	594,000
IBEW	625,000	\$1 20—\$4 00	9,000,000	RR Trainmen	207,439	Locals determine	
Elevator Constructors	10,000	Locals determine		RR Yardmasters	4,500	\$4 00	216,000
Operating Engrs.	187,180	\$2 00	4,492,320	RR Carmen	106,700	\$2 00—\$2 50	2,560,800
Technical Engrs.	15,000	\$1 50	270,000	RR Conductors	32,000	Locals determine	
Federal Employees	100,000	\$7 00 per year	700,000	RR Patrolmen	3,275	\$1 50	58,950
Fire Fighters	84,000	Locals determine		RR & SS Clerks	356,540	\$2 00	8,556,960
Firemen & Oilers	60,000	\$2 00	1,440,000	Retail Clerks	250,000	\$2 00	6,000,000
Flight Engrs.	1,550	Locals determine		RWDSU	140,000	\$2 00	3,360,000
Foremen	20,000	\$1 50	360,000	Roofers	13,000	\$3 00	468,000
Furniture	50,000	\$2 00	1,200,000	Rubber Workers	185,988	\$2 00	4,463,712
Garment Workers	40,000	\$2 00	960,000	SILU	70,000	Affiliates deter.	
ILGWU	439,277	\$1 72	9,066,677	SUP	10,000	\$5 00	600,000
Glass Workers	47,150	1% of wages		Sheet Metal	32,000	\$3 00	1,152,000
Flint Glass	35,000	1% of gross earnings		Shoe Workers	60,000	\$2 50	1,800,000
Glove Workers	3,000	\$1 50	54,000	Boot & Shoe	60,000	\$1 75	1,050,000
Gov't Employees	60,000	75¢	540,000	Shoe & Allied	6,925	\$1 72	142,932
Groin Millers	35,000	\$2 00	840,000	Porters	14,000	\$4 00	672,000
Plant Guards	7,000	\$2 50	210,000	Stage Employees	42,000	\$1.85	932,400
Guards Union	5,200	No minimum		State, City & Town	14,000	No minimum	
Handbag Workers	32,000	\$2 50	960,000	State, County & Mun	100,000	\$1.50—\$2.00	\$1,800,000
Hatters	35,000	40¢—50¢	168,000	Steelworkers	1,250,000	\$3 00	45,000,000
Hod Carriers	386,000	\$1.00	4,632,000	Stereotypers	10,500	Locals determine	
Hosiery Workers	30,000	\$2.15	\$774,000	Stone Workers	16,000	\$3 00	576,000
Hotel Employees	413,446	\$2 50	12,403,380	Slave Mounters	10,250	\$3 00	369,000
Insurance Agent	15,000	\$3 00	540,000	Street & Motor Coach	200,000	\$2 00	4,800,000
Insurance Workers	12,000*	\$3 00	432,000	Switchmen	10,100	\$1 65—\$9.18	199,980
Iron Workers	141,000	Locals determine		Teachers	50,000	Locals determine	
Jewelry Workers	17,136	\$2 00	411,264	Teamsters	1,300,000	\$3 00	46,800,000
Lathers	15,000	Locals determine		Telegraphers	33,705	50¢—\$1.50	202,230
Laundry Workers	100,000	\$2 50	3,000,000	UTWA-AFL	100,000	\$3 00	3,600,000
Letter Carriers	103,000	Locals determine		TWUA-CIO	361,970	\$3 23	14,029,957
Rural Letter Carriers	36,273	Locals determine		Tobacco	32,000	\$1.50	576,000
Lithographers	29,350	\$3 50	1,232,700	Toy Workers	10,000	Locals determine	
Locomotive Engrs.	77,197	Locals determine		Train Dispatchers	4,000	83¢—\$1 54	39,840
Locomotive Firemen	100,000	No minimum		TWU	110,000	\$2.50	3,300,000
ILA-Ind.	65,000*	Locals Determine		Typographers	97,741	Locals determine	
Longshore-AFL	15,000*	\$2 50	450,000	Upholsterers	55,000	\$2 00	1,320,000
ILWU	65,000	Locals determine		Utility Workers	80,000	\$1.00	960,000
Machinists	848,794	\$1.00—\$2 00	10,185,528	Woodworkers	137,251	\$2.00	3,294,024
Maintenance of Way	240,000	58½¢	1,680,000				
Marine Engrs.	12,000	\$5 00	720,000				
Marine & Shipbuilding	55,000	\$3.00	1,980,000				

* Bureau of Labor Statistics Figures.

DATA: National Industrial Conference Board, Inc.

SOURCE: Reproduced from *Business Week*, January 7, 1956, by permission, McGraw-Hill Book Co.

are plentiful. Industrial union fees are usually more stable, since they do not generally function as an instrument of admission policy. Dues tend to be more stable than initiation fees for both craft and industrial unions.

The Problem of High Fees

Generally, complaints of high union fees refer to initiation fees rather than to dues. Moreover, as has been pointed out, the basic problem is admission policy and not initiation fees. Any legal attack on what is considered antisocial union fees must be directed to the root of the problem—the extent to which unions should be permitted to exclude persons from employment by excluding them from the union.

There is no one criterion for a “too high” initiation fee. One hundred dollars appears a quite reasonable fee for the Air Line Pilots Association, whose members may earn more than \$10,000 per annum; the same fee is outrageous when charged by the Hod Carriers’, Building and Common Laborers’ Union or the International Longshoremen’s Association. A fee is large or small relative to the benefits expected, which include primarily prospective earnings.

Most union fees are not excessive by this standard. The main exceptions are found in the building and amusement industry unions. In these industries, union power is great and union control over jobs extraordinarily complete. Those who are in the unions are thus afforded an unusual opportunity to inflict heavy charges on such applicants as they permit to join.

Section 8b (5) of the Taft-Hartley Act makes it an unfair labor practice for a union to charge “excessive or discriminatory” fees. The Act further requires the National Labor Relations Board to consider “among other relevant factors, the practices and customs of labor organizations in the particular industry, and the wages currently paid to the employees affected” in determining whether a fee is excessive or discriminatory.

There has been little experience with this provision of the Taft-Hartley Act, but if jobs become scarce, perhaps more complaints will be filed. Certainly this seems a reasonable approach to the question of high fees.

Salaries

Although the push for higher wages is the principal reason for the existence of the union movement, unions themselves are not distinguished as high-salaried organizations. The average union staff member receives considerably less than his counterpart in industry. Actually, union officials are paid on the more modest scale which typifies employees of other non-

profit institutions. Of course, the income of the union representative is usually greater, often substantially, than he would earn in his trade. Usually, however, the prestige and interest of office, and not the money, are the lures which impel a man to seek union office.

TABLE 9

UNION OFFICIALS: WHO THEY ARE, HOW MUCH THEY ARE PAID,
HOW THEY ARE ELECTED

UNION	MEMBERSHIP	OFFICERS	SALARY	OTHER PAY	YEARS IN OFFICE	HOW ELECTED	TERM IN YEARS
Railway Clerks	293,500	George Harrison	\$60,000	\$ 4,719	29	Convention	4
Operating Engineers	200,000	William E. Maloney	\$55,000	\$ 5,000	17	Referendum	4
Teamsters	1,231,000	Dave Beck	\$50,000	\$ 9,194	5	Convention	5
Teamsters	1,231,000	John English (Sec.)	\$50,000	—	11	Convention	5
Mine Workers	Not Reported	John L. Lewis	\$50,000	—	37	Referendum	2
Steelworkers	1,194,000	David McDonald	\$50,000	—	4	Referendum	2
Iron Workers	139,462	J. H. Lyons	\$41,650	—	9	Convention	4
Hod Carriers	433,125	Joseph Moreschi	\$39,000	—	31	Convention	5
Sheet Metal Workers	50,000	Robert Byron	\$37,523	—	18	Convention	4
Plumbers	240,720	P. T. Schoeman	\$35,202	—	1	Convention	4
Carpenters	804,343	M. A. Hutcheson	\$34,800	\$ 2,555	5	Referendum	4
Retail Clerks	265,000	James Suffridge	\$32,958	—	13	Referendum	4
Maintenance of Way Employees	219,191	T. C. Carroll	\$30,000	—	10	Convention	3
Bricklayers	147,157	Harry C. Bates	\$30,000	—	21	Convention	4
\$20,000 — \$30,000							
Printing Pressmen	98,967	Thomas Dunwoody	\$28,441	—	5	Referendum Vote by Locals as Units	5
Distillery Workers	25,200	Joseph O'Neill	\$28,375	—	—	Convention	—
Stage Employees	42,000	Richard F. Walsh	\$26,450	\$ 2,516	16	Convention	2
Longshoremen (ILA)	65,000	William Bradley	\$25,533	—	4	Convention	4
Screen Actors	9,500	John Dales (Sec.)	\$25,475	\$ 1,375	—	Appointive	—
Firemen & Enginemen	95,000	H. E. Gilbert	\$25,000	\$ 5,524	4	Convention	4
Television & Radio Artists	15,000	Don Conway (Sec.)	\$25,000	—	—	Appointive	—
Machinists	864,095	A. J. Hayes	\$25,000	—	8	Referendum	4
Jewelry Workers	32,000	H. J. Powell (Sec.)	\$24,347	—	—	Referendum	2
Communications Workers	300,000	Joseph A. Bairne	\$23,950	—	14	Convention	—
Garment Workers	440,650	David Dubinsky	\$23,400	—	25	Convention	2
Musicians	248,078	James C. Petrillo	\$23,000	—	17	Convention	—
Plasterers	65,000	John E. Rooney	\$22,600	\$ 9,327	17	Convention	4
Bookbinders	54,316	Robert Haskin	\$22,804	—	4	Referendum	4
Electrical Workers (IUE)	361,639	James B. Carey	\$22,500	—	7	Convention	2
Firemen & Oilers	60,000	Anthony Matz	\$22,150	—	—	Convention	4
Auto Workers	1,239,000	Walter Reuther	\$22,000	—	11	Convention	2
Electrical Workers (IBEW)	630,000	Gordon Freeman	\$21,000	—	—	Convention	2
Meat Cutters	335,167	Earl Jimerson	\$20,000	\$12,400	—	Convention	4
Boot & Shoe Workers	40,000	John J. Mara	\$20,540	—	28	Convention	2
Oil, Chemical Workers	180,000	O. A. Knight	\$20,444	—	17	Convention	2
Clothing Workers	385,000	Jacob Potofsky	\$20,385	—	11	Referendum	2
Boilermakers	150,000	William A. Calvin	\$20,000	—	3	Convention	4
Building Service Empl.	206,692	Wm. L. McFeiridge	\$20,000	—	17	Convention	5
Railway Carmen	170,000	A. J. Bernhardt	\$20,000	—	3	Convention	4
\$15,000 — \$20,000							
Railroad Trainmen	204,397	Wm. P. Kennedy	\$19,771	—	8	Convention	4
Laundry Workers	73,204	Sam Byers	\$19,516	—	12	Convention	4
Maritime Union	43,000	Joe Curran	\$19,000	—	20	Referendum	2
Hotel & Restaurant	412,946	Ed S. Miller	\$18,000	\$12,810	3	Convention	2
Asbestos Workers	9,000	Carl Sickles	\$18,000	\$ 8,200	3	Convention	5
Grain Millers	32,378	Samuel P. Ming	\$18,582	—	9	—	—
Chemical Workers	90,000	E. R. Moffet	\$18,402	—	4	—	—
Roofers	17,298	Chas. Aquadro	\$18,397	—	17	Convention	2
Textile Workers (UTW)	90,000	Anthony Valente	\$18,190	—	13	Convention	2
Painters	270,000	L. M. Raftery	\$17,600	\$13,326	5	Convention	4
Street Rm. Workers	190,000	A. L. Spradling	\$17,249	\$ 4,944	11	Convention	2

TABLE 9—Continued

UNION	MEMBERSHIP	OFFICERS	SALARY	OTHER PAY	YEARS IN OFFICE	HOW ELECTED	TERM IN YEARS
\$15,000—\$20,000							
Bakery Workers	160,000	James G. Cross	\$17,500	—	7	Referendum	5
Glass Bottle Workers	51,000	Lee Minton	\$17,500	—	11	Convention	2
Marine Engineers	9,000	H. L. Daggett	\$16,920	—	8	Convention	2
Jewelry Workers	32,000	Joseph Morris	\$16,745	—	10	Referendum	2
Textile Workers (TWUA)	292,500	Emil Rieve*	\$16,307	\$ 4,012	13	Convention	2
Metal Polishers	20,000	Roy Muehlhoffer	\$16,076	—	8	Referendum	2
Hatters	40,000	Alex Rose	\$15,600	—	7	Convention	2
Leather Workers	28,000	Ossia Wolinsky	\$15,667	—	6	Convention or Referendum	3
Mechanics (MESA-UAW)	—	Matthew Smith	\$15,171	—	—	—	—
Barbers	85,000	Wm. Birbright	\$15,000	—	20	Convention	5
Retail Workers	140,000	Max Greenberg	\$15,000	—	3	Convention	3
Utility Workers	81,000	Joseph Fisher	\$15,032	—	12	—	—
\$12,000—\$15,000							
Elevator Constructors	8,643	E. A. Smith	\$14,000	\$15,750	1	Convention	5
Allied Ind. Workers	120,000	Earl Heaton	\$14,999	—	3	Convention	2
Insurance Agents	12,604	George Russ	\$14,499	—	19	—	—
Brick & Clay Work.	23,000	H. R. Flegal	\$14,808	—	—	Referendum	1
Woodworkers	105,058	A. F. Hartung	\$14,785	—	5	Referendum	2
Photo-Engravers	16,032	W. T. Connell	\$14,300	—	3	Convention	1
Masters, Mates	9,500	John Bishop (Sec.)	\$14,044	—	—	Convention	2
Pattern Makers	13,800	Geo. Lynch	\$14,000	—	23	Referendum	2
Telegraphers	30,000	W. L. Allen	\$14,074	—	36	Convention	2
Fire Fighters	85,000	John Reamond	\$13,000	\$ 9,026	11	Convention	2
Paperworkers	50,000	Harry Sayre	\$13,953	—	10	Convention	1
Packinghouse Work.	—	Ralph Helstein	\$13,867	—	11	Convention	1
Marble Polishers	6,500	Wm. McCarthy	\$13,000	—	25	Convention	4
Tobacco Workers	33,967	John O'Hare	\$12,564	—	13	Convention	1
Rubber Workers	175,000	L. S. Buckmaster	\$12,000	\$ 4,166	12	Convention	1
Transport Workers	90,000	Michael Quill	\$12,000	—	22	Convention	2
\$7,500—\$12,000							
34 unions							
\$7,500 or Less							
Electrical Work (UE)	—	A. J. Fitzgerald	\$ 7,500	—	16	Convention	1
Transport Service	8,000	W. S. Townsend*	\$ 7,500	—	17	Convention	2
Stone Cutters	1,900	Paul Givens	\$ 7,000	\$ 3,649	18	Referendum	3
Hosiery Workers	15,000	Alex. McKeown*	\$ 6,500	—	18	Convention	2
Mailers	3,300	H. A. Hosier	\$ 6,500	—	6	—	—
Slave Mounters	14,000	Jos. Lewis	\$ 6,115	\$ 2,748	13	Convention	3
Granite Cutters	4,051	C. Pagnano	\$ 6,000	—	6	Referendum	4
Bill Posters	1,800	Michael Noch	\$ 5,666	—	3	Convention	2
Agricultural Workers	7,136	H. L. Mitchell	\$ 5,433	—	13	—	—
Glove Workers	2,900	Thos. Durian	\$ 5,115	—	20	Convention	2
Lithographers	27,976	Geo. Canary	\$ 4,730	—	—	Referendum	2
Misc. Independents	—	—	—	—	—	—	—

*No longer in office.

DATA: Congressional Record.

SOURCE: Reproduced from *Business Week*, July 6, 1957, pp. 46, 47, by permission, McGraw-Hill Book Co.

There are, however, some union officials who receive fairly fancy salaries. (See Table 9.) A salary of from \$25,000 to \$60,000 does not seem large when compared to one varying from \$100,000 to \$500,000 paid to an industrialist. But if the \$50,000 requires a dues increase to finance it, as was the case when the Steelworkers raised Mr. McDonald to \$50,000, perhaps one may consider it exorbitant. Unions are, after all,

nonprofit organizations whose expenses are paid for by workers' monthly dues.

Table 9 shows that union salaries follow no comparable pattern. The largest unions do not necessarily pay the highest salaries. The 50,000-member Sheet Metal Workers pays its chief executive \$37,523 per annum, about 75 cents per member per year. Walter Reuther, head of the 1.2 million-member Auto Workers, receives only \$22,000, or less than 2 cents per member per year. L. S. Buckmaster, president of the Rubber Workers, receives \$12,000 per year. W. E. Maloney, president of the Operating Engineers, receives \$55,000. The two latter unions claim about the same number of members.

We may conclude that union salaries vary with the interest of the chief executives in the subject. Some union officials want more money. And because the salaries of the rest of the union bureaucracy depend upon what the top man receives, there is always interest in more money for the top man if he is interested and willing to countenance his subordinates pushing up the scale.

Union Financial Methods

A union with a membership of 100,000 and dues of \$2.00 per month would have a monthly dues income of \$200,000 and expenditures for numerous items, most of which are purchased in bulk. Obviously, it is imperative that unions operate with careful bookkeeping and accounting methods which account for every penny to the membership. Fortunately, most national unions have adopted modern accounting methods. They employ competent bookkeeping staffs. Their books are audited by outside certified accountants. They publish detailed financial reports usually at quarterly or semiannual intervals in the union journal, and they require all officials who are handling money to be bonded. It may be said without hesitation that the financial affairs of most national unions are in at least as good shape as those of most corporations.

Local union finances are sometimes less carefully handled. As a result, most national unions lay down requirements in accounting methods and procedure which their locals must follow. The International Ladies Garment Workers' Union employs a staff of accountants who drop in on local unions and audit their books without notice to the locals, much as state bank examiners audit bank funds. Because of practices such as these, local union finances are today handled in a much more business-like manner than ever before.

There remain, however, a number of unions whose finances have been the source of handsome profits for their leaders and who have never

given the membership adequate accounting of the union funds. These unions include the Bakery and Confectioners' Workers, the Teamsters, the Hod Carriers', Building and Common Laborers' Union, the Operating Engineers, and the International Longshoremen's Association. The poor financial methods of these organizations and outright misappropriation of funds by some labor leaders has become a more serious problem in recent years because of the tremendous build-up of funds in so-called health and welfare plans.

These plans provide for the payment of various insurance, hospitalization, and medical benefits through insurance companies or other similar organizations, and they are generally financed by deductions from payroll paid by the employer and sometimes also contributed to by the employee. The payment of 5 to 10 cents per hour for each employee into a welfare fund can result in the accumulation of tremendous sums of money, and in the hands of a few dishonest union officials, this has provided the means of the defalcation of hundreds of thousands of dollars. Congressional hearings in 1955 and again in 1957 revealed that, in a few cases, monies have been stolen directly or by such means as paying exorbitant insurance commissions, placing union officials, friends, or relatives on the payroll of a welfare fund with no job to do, paying claims to people who did not exist, and otherwise milking these funds.

One result has been the demand for state and federal laws requiring publication of union financial data. The Taft-Hartley Act required unions to furnish the Secretary of Labor and each member with financial data as a prerequisite for using the machinery of the National Labor Relations Board. The effectiveness of this provision has been limited because (1) the Department of Labor has not regularly published the information; and (2) the unions which are most in need of exposure, i.e., many of those in the building and amusement trades, have no need to use NLRB machinery, for they are already well entrenched in their respective industries.

In addition to the Taft-Hartley Act, four states, New York, Connecticut, California, and Washington, by mid-1957 had passed laws providing for some regulation of health and welfare funds.

In New York, the Mitchell-Hollinger law applies to every "employee welfare fund" that is "established or maintained" by one or more employers "together with" one or more labor organizations. Such funds are supervised by either the State Superintendent of Banks or the State Superintendent of Insurance. The funds must register, report, and are subject to examination by these agencies. Funds maintained solely by employers or established and maintained only by unions are not covered.

By contrast, Washington, the first state to adopt a law supervising employee benefit plans since the wave of unfavorable publicity hit the funds, places trustees of "employee welfare trust funds," jointly maintained or not, under the state law.

In addition to these two laws, and those of California and Connecticut, which did not become effective till late in 1957, several bills have been considered by Congress for federal regulation of welfare funds. These, like the state laws, and proposed state laws, differ as to how the funds should be regulated and by whom. One of the federal bills wants the Department of Labor to handle the enforcement, another the Securities and Exchange Commission. It has also been suggested that the Internal Revenue Service do the policing.

Provision is made in most of the state laws for officials of the state government administering the law to waive compliance if registration, reporting, disclosure, and examination requirements have been fulfilled in another state. But this right is purely discretionary. Some state insurance commissioners can go to the opposite extreme on technical grounds and prevent or revoke waivers, even though such waivers are allowed.

Regulation of health and welfare funds and of union accounting practices in general have been hindered by the reluctance of employers and insurance companies to agree to such regulation and the conflict over state and federal powers. Employers have objected to regulation of funds for fear that they will be subject to greater regulation themselves in the handling of pensions and other fiscal matters and have favored laws like that of New York which exempts employer-managed funds from regulation. The AFL-CIO, on the other hand, has come out in favor of strict regulation of all funds no matter who manages them.

Insurance companies which are now regulated exclusively by the states are very desirous of avoiding any federal regulation with possible stricter provisions and uniform practices. And, of course, the state regulatory commissions now in the insurance field are very concerned about the possibility of yielding some of their functions to a federal organization.

Certainly, however, regulation is in order. Whereas in former years an occasional dishonest union official could steal a few thousand dollars, by means of a welfare fund he can now steal a few hundred thousand. Moreover, integrity and backbone on the part of employers are also involved. The employer representative who closes his eyes to union dishonesty while at the same time handing over to a corrupt union leader large amounts for welfare funds is not without responsibility. Too often, employers have been willing to pay off a racketeer and close their eyes

to his malfeasance rather than deal with an honest union and an honest organization. Perhaps the most hopeful sign in the whole picture has been the attitude of the AFL-CIO which not only supports comprehensive federal regulation but also has made it plain that it will not tolerate continuation of such action within its ranks and has set up a detailed code of ethics to govern the handling of employee welfare funds. A summary of the code governing health and welfare funds is set forth in Table 10.

The actions of the AFL-CIO executive council and particularly of George Meany, President, have demonstrated that the organization intends to enforce its code. Certainly in expelling the Teamsters, their largest affiliate, the Executive Council of the AFL-CIO has demonstrated that it means what it says in terms of ethical practices. Nevertheless, federal legislation is needed to protect the interests of the employees involved in this field. And it is difficult to see why any welfare fund, whether employer managed, union managed, or jointly managed, should be exempted from legislation requiring practices such as those set forth in the AFL-CIO Code of Ethics.

Net Worth of Unions

No adequate survey exists as to the net worth of unions. Estimates of the total assets of unions have ranged all the way from half a billion to several billion dollars. The difficulty is that, although most national unions present accurate reports of their net worth in reports to the membership, most local unions and intermediate governing bodies do not make such data readily available. With 70,000 locals and numerous district councils, system boards, joint boards, and state and local federations, any data which do not include local and intermediate union government are obviously unreliable.

Given the growth of union health and welfare and pension funds during the last decade, one may guess that the total net worth of unions is something over a billion dollars. This is a lot of money, but even if union assets are undervalued by this estimate, there are quite a few corporations which have a considerably higher net asset value than the total assets of all unions. Union wealth is increasing; it is still relatively insignificant compared to corporate wealth.

ADMISSION POLICIES

The great majority of American unions admit any applicant to membership. "If he is good enough to work in the plant, he is good enough

TABLE 10

SUMMARY OF AFL-CIO CODE OF ETHICS GOVERNING UNION ADMINISTRATION
OF HEALTH AND WELFARE FUNDS

1. No union official who receives full-time pay from his union should receive fees or salaries from a health, welfare or retirement fund.

2. No union official who exercises responsibilities or influence in administering welfare programs or in placing insurance contracts should have any compromising personal ties with outside agencies—such as insurance carriers, brokers, or consultants—doing business with the welfare plan. Any union official found to have such ties, or to have accepted fees, inducements, benefits or favors of any kind from any such outside agency should be removed.

3. Complete financial records of all welfare funds and programs should be maintained in accordance with the best accounting practices. Each fund should be audited at least once a year, and preferably semiannually, by independent accountants of unquestioned professional integrity. The accountant should certify that the audits fully and comprehensively show the financial condition of the fund and the results of its operation.

4. All audit reports should be available to the members of the union and any other affected employees.

5. The trustees or administrators of welfare funds should make a full report to the beneficiaries at least once each year. This report should set forth in detail:

- The receipts and expenses of the fund.
- All salaries and fees paid by the fund—including, to whom paid, the amount paid, and the service or purpose for which paid.
- A breakdown of the insurance premiums, if a commercial insurance carrier is involved, showing: the premiums paid, dividends, commissions, claims paid, retentions and service charges.
- A statement from the person to whom any commissions or fees of any kind were paid, and a financial statement from the insuring or service agency,

if it is not a commercial insurance firm.

- A detailed account of how the reserves held by the fund are invested.

6. Where commercial insurance carriers are used, the carrier should be selected through competitive bids, solicited from a substantial number of reliable companies, on the basis of the lowest net cost for the given benefits. The Ethical Practices Committee says that the union administrators or trustees should also take into consideration such factors as: "comparative retention rates, financial responsibility, facilities for and promptness in servicing claims, and the past record of the carrier, including its record in dealing with trade unions representing its own employees."

In reporting to the membership, the fund trustees should include the specific reasons for the selection of the carrier finally chosen. And the carrier should warrant that no fee or other remuneration of any kind has been paid directly or indirectly to any person connected with the administration of the fund.

7. Where union trustees have a say in the investment of welfare fund reserves, the union should make every effort to prohibit their investment: in the business of any contributing employer; in an insurance carrier or agency doing business with the fund; or in any enterprise in which any trustee, officer or employee of the fund has a personal financial interest which could be affected by the fund's investment or disinvestment.

8. "Where any trustee, agent, fiduciary or employee of a health or welfare program is found to have received an unethical payment, the union should insist upon his removal and should take appropriate legal steps against both the party receiving and the party making the payment."

9. Welfare programs should provide for prompt redress against the arbitrary or unjust denial of individual members' claims.

to join the union" sums up the prevailing union practice and attitude.

There are, however, a significant number of unions which have consciously limited membership in their organizations because of race or other grounds of difference.

Racial Exclusion

American trade-unions have always been in the vanguard of those who advocate democracy and equal opportunity for all regardless of race, color, creed, or national origin. And it must be emphasized that most of the nation's 200 national labor organizations have made an honest effort to practice what they preach. This has been especially true since 1936 when the CIO was born. The fundamental philosophy of the CIO unions was to "take in everybody." Competition from the CIO, moreover, has forced most of the AFL and the independent unions to adopt a more tolerant attitude than many had previously displayed.

But a sizable group of unions openly discriminates against minority groups. The reasons lie in the basic economic and technological conditions of the particular industry. Those unions which actively fight race discrimination—the United Automobile Workers, the United Steelworkers, the International Ladies Garment Workers' Union—are organized on an industrial basis, the only type of union structure feasible in a mass-production industry. Such unions derive their bargaining power by admitting all the workers in their industries to membership and by bargaining for them without discrimination. If they excluded any racial or ethnic group, they would weaken their bargaining power. Exclusion would invite the excluded group to join another union and to break strikes. Racial discrimination by unions in mass-production industries is not only impractical but it endangers the union's very existence.

On the other hand, unions organized on a craft basis derive their bargaining power by controlling the entrance of new workers to a trade or by monopolizing a strategic occupation. Such unions may find that race discrimination conveniently and effectively limits the number of workers available to that trade and thus raises the price of labor. It is no accident that craft unions like the United Association of Plumbers and Steamfitters of the United States and Canada have long had discriminatory policies.

This is not the whole story: there are craft unions that do not discriminate, and industrial unions that do. Many other factors are involved, and in each case they are mixed in different ways. In the case of the railway unions, for example, much can be explained by their character as

fraternal societies. The first two railway unions (the Brotherhood of Locomotive Engineers and the Order of Railway Conductors of America) were fraternal and benevolent societies, and discriminatory rules are traditional in many areas of the fraternal field. As other railway unions came into existence, they copied the bylaws of the older organizations, including the discriminatory rules, as a matter of course, even though they may have become by then more important as bargaining than as fraternal organizations.

Recently, however, economic factors have been most important in maintaining the discriminatory practices of the railway unions. Employment on the railways has been declining, and the railway unions have been trying to shift to Negro workers, whom they bar from membership, the burden of unemployment. The Brotherhood of Locomotive Firemen and Enginemen and the Brotherhood of Railroad Trainmen have succeeded in getting nearly every railroad in the South either to limit the number of Negroes hired as brakemen and firemen or, more often, to eliminate Negroes from these jobs altogether within a few years. Negroes are thus being deprived of jobs that have been open to members of their race since the southern railroads were built and that have been among the highest paying jobs to which they could aspire in the South.

The AFL-CIO takes a strong position against discrimination in its constitution and in all of its official actions. Nevertheless, it has admitted to membership both the Locomotive Firemen and the Railroad Trainmen, but it has exacted promises that these organizations will delete the offending clauses from the constitutions—which may or may not alter their practices.

There are many unions which expressly protect the right of workers to join regardless of race. Such provisions vary from explicit provisions that "no worker otherwise eligible to membership shall be discriminated against or denied membership because of race" (Woodworkers), or that any discrimination because of race will be punishable by a fine of \$100 (Bricklayers), to simple provisions that all eligible members "regardless of race" shall be admitted (United Mine Workers).

In general, racial admission policies are determined and controlled by the national union. There have been important exceptions. Locals of the Bricklayers and United Automobile Workers have discriminated against Negroes despite contrary national union policies; and locals of the Machinists and Boilermakers have admitted Negroes on an equal basis in spite of national union discriminatory rules. These local variations have been the exception rather than the rule.

Despite the progress in eliminating it, racial discrimination by a

few unions remains a blot on the labor movement. The fact that the record of the labor movement is superior to that of most other facets of American life in race relations matters does not reduce the need to eliminate race discrimination in unions.

Other Exclusions

The traditional policy of American labor has been to curtail immigration. With employers recruiting immigrants as a source of cheap labor and as strikebreakers and with the traditional job-scarcity consciousness of the AFL, the labor movement was the chief source of opposition to unlimited immigration prior to World War I. This was true despite the fact that the unions were built predominately from immigrant workers in many areas of the country. A direct result of union opposition to unlimited immigration has been widespread discrimination against aliens by the American labor movement. A recent survey found that twenty-two unions require as a prerequisite of membership that workers must have filed a declaration of intent to become a citizen. Four additional ones required in addition that the worker become a citizen as soon as possible.

In recent years, however, the AFL-CIO have gone on record against the restrictive features of the 1952 (McCarran) immigration act.

A great many unions exclude Communists, Fascists, and the other totalitarian groups from their memberships. The rationale behind this is a practical one—these are conspiratorial groups aimed at seizing control of the unions and using them for their own ends. Difficulties often arise, however, because of false charges of communism against innocent persons and because of the ability of the Communist to escape detection.

At one time many unions barred women from membership, but such sex discrimination is now found only in constitutions of unions having jurisdiction over fields of employment not occupied by women, e.g., railroad engineers.

Closed Unions

Sometimes unions refuse admission to any newcomers, or accept only a favored few, e.g., relatives of members. Such unions are found almost exclusively among the highly skilled or strategically located groups who alone are in a position to control entrance to the trade. In addition, closed unions may be found in industries where employment is casual or seasonal (maritime, garments).

The closed union is usually a local organization. Generally, national unions are opposed to a policy which limits union membership and may create a sizable group of potential strikebreakers. The local leadership,

however, is under pressure to give preference to local members—even at the expense of members from other locals—and closing the union books is one way to achieve this result.

Sometimes closed unions give limited work permits to nonmembers. This has developed into a racket in many instances with permit holders charged high fees to work, and sometimes permit holders being allowed to work for a fee, while regular members are out of work.

The extent to which the closed union exists is not known. It is most common in the building, amusement, and printing trades, the local delivery business, diamond cutting, and mirror manufacturing. In periods of depression, it has extended to the seasonal and casual trades and even to such industries as mining.

Reasons for Union Exclusionary Policies

The fact that some trade-unions limit their membership should not be regarded as too extraordinary. A great many barriers against economic opportunity are sought by a wide variety of organizational groups—farmers, business, professional as well as labor organizations. Moreover, the policies used by unions to bar admission are like those of other groups. Consider, for example, the successful attempts of the American Medical Association to limit the number of doctors (or to use the AMA's terminology, "prevent overcrowding of the profession"). In the course of its activities the AMA has used licensing laws, race discrimination, discrimination against aliens, and other equally antisocial means of preserving the medical profession for those who are already in it.¹⁰

Whether a labor organization, a professional society, or a business organization, the reasons for restricting entry are usually the same: work-scarcity consciousness, dictated by fear of unemployment. For example, unions are more likely to close their books in depressions than in prosperity. And, also it is true that race prejudice is only one factor in the discrimination against Negroes. Undoubtedly, a most important reason for such discrimination is the fact that the color line provides a convenient method of limiting the market.

Public policy generally condemns closed unions. Nevertheless, the case is often not a clear-cut one. For example, in depressed times when unemployment among union members in the maritime industry is significant, unions typically "close their books." Because of the hiring hall system whereby men are employed in rotation for available jobs, the effect

¹⁰ See Garceau, *op. cit.*; and M. Friedman and S. Kuznets, *Income from Independent Professional Practice* (New York: National Bureau of Economic Research, Inc., 1945), pp. 11-21.

of admitting new members would result in a further sharing of unemployment in a particular industry where unemployment among those already attached to the industry is severe and where employment even in ordinary times is casual and intermittent. One may therefore question whether blanket outlawing of closed unions under all circumstances is wise; or if such outlawing is accomplished, whether it ought not to be accompanied by some type of regulation designed to prevent further concentration of the unemployed in already depressed industries or areas.

JUDICIAL PROCEDURE IN UNIONS

In the conduct of their affairs, unions have found it necessary to establish a list of offenses for which penalties may be assessed against the members. Union constitutions give officers considerable authority to impose a wide variety of sentences upon their own initiative, or after a trial has found the member guilty. Many of the offenses are general in character (action unbecoming a union member is such an offense); others are more specific (strikebreaking, for example).

The penalties vary from a modest reprimand to the serious ones of heavy fines or expulsion from the union, which can mean expulsion from the job. Union judicial processes are thus a serious matter from the point of view of public policy—namely, to what extent should private governments, such as unions, be permitted to levy fines and to expel persons from work?

Anyone familiar with the realities of union organization realizes that unions must have some protection against those who would convert the union into instruments of outside organizations, e.g., the Communist Party, or those who are agents of the employer, labor spies, or provocateurs. Moreover, if unions were unable to enforce any penalties whatsoever against members, workers who violate collective bargaining agreements could not be disciplined by the union.

On the other hand, the vagueness and general character of offenses found in union constitutions are a grave peril to the civil rights of its members. One of the worst abused is the prohibition against slander. No constitution defines "slander." Yet it is often invoked to insulate union officialdom against criticism. The same is true of "creating dissension" or discussing "union business" in public.¹¹ Such events have led one union official to declare that the "ordinary rank and file union member frequently enjoys less freedom in relation to his own union leader than he

¹¹ Philip Taft, "Judicial Procedure in Labor Unions," *Quarterly Journal of Economics*, Vol. LIX (1945), p. 377.

does in relation to his employer. . . . Members of unions . . . are on occasion exposed to severe penalties for exercising rights . . . that are specifically guaranteed by the law of the land."¹²

Procedure

Charges against a union member are typically filed by another member. Invariably they must be in writing and be served on the accused. A trial committee is then usually appointed by the local president or elected by the local. The committee hears testimony and renders a decision which usually is reported to the local membership for action. A guilty verdict often requires more than a majority vote—two thirds or three fourths—usually by secret ballot. Penalties vary from reprimands and light fines (\$5) to expulsions and heavy fines (\$100–500).

Virtually all unions provide for appeals through the union hierarchy. A frequent course is for appeal to the regional office, thence to the international president and/or executive board, and finally to the international convention.

In addition to this procedure, a number of unions grant their international president specific authority to initiate and/or hear charges against local members or local unions. Other unions permit the president to order a local to try a member and to take action if the local refuses to comply.

Status of Members during Appeal

An examination of 126 union constitutions found that in 52 unions an appeal does not suspend the verdict, whereas in only 5 is the penalty vacated pending the outcome of an appeal. Twenty-six constitutions provide for a stay of verdict under some conditions, only 1 for complete restitution in case a higher tribunal overturns a guilty finding, and 42 did not define the status of the appellant. The latter in practice usually enforce the verdict pending appeal unless the international officers intervene in the defendant's behalf.¹³

Analysis of Union Judicial Procedure

Justice requires trial before an impartial jury, a full and fair hearing, and speedy determination of cases, including the appeal. Union judicial procedure does not stand up well under these criteria.

¹² Will Herberg, "Bureaucracy and Democracy in Labor Unions," *Antioch Review* (Fall, 1943), p. 405. Mr. Herberg is an official of the International Ladies Garment Workers' Union.

¹³ Philip Taft, "Status of Members in Unions During Appeal from a Penalty Imposed by the Local Union," *Quarterly Journal of Economics*, Vol. LXII (1948), pp. 610–16.

In the first place, the accuser may unduly control the jury, or in some unions may actually constitute it. Potential witnesses for accused can be intimidated, and general fair play denied.

The infliction of the penalty prior to the completion of an appeal is a severe hardship in many cases. An appeal to a convention which may not meet for 5 years is often an empty right, especially if the penalty is enforced meanwhile. Moreover, conventions are large legislative bodies basically unable to give the time and study to appeals from disciplines or other judicial functions. The lack of an independent judiciary which effectively protects the dissenter against reprisal is one of the most fundamental defects in trade-union government.

Government Intervention

The weakness of the union judicial systems is further worthy of emphasis because of the reluctance of courts to interfere in internal union affairs. Traditionally, the courts have regarded unions as private bodies without a vested public interest. Hence, they would not intervene in behalf of workers disciplined by unions unless the worker was denied the forms of a fair trial, i.e., fair according to the union rules, or else fair in general terms if the union rules contravene public law or policy. Moreover, the courts frequently require union members to exhaust internal remedies before accepting a case—which means appealing first up the union hierarchy to a convention before bringing the case to the courts. Court litigation is, moreover, costly and uncertain in outcome because of the numerous technicalities involved.

A frequent suggestion is that the unions themselves set up an impartial tribunal with power to rule on sentences by unions against members. Two unions—the Upholsterers and the Auto Workers—have done just that. Although the former union has had such procedure for several years, it has been little utilized.

The Auto Workers' panel is composed of prominent educators and churchmen and was established in 1957 by the union convention upon recommendation of the UAW President, Walter Reuther.

Unfortunately, only the most democratically minded unions, such as the UAW, can be expected to put such a brake on the power of their officials. The unions in which such limits of authority would be most helpful have demonstrated no interest. State legislatures and Congress must do the job.

Minnesota has a state law designed to promote union democracy, but it has been little used. A significant and increasingly used provision in the Taft-Hartley Act prevents unions from causing the discharge of

workers under union clauses except for nonpayment of dues. This has seemed to prevent a number of attempts by union leaders to discriminate against employees who opposed their acts or administration. Like the courts, however, NLRB procedure under the Taft-Hartley Act is time consuming and often takes too long to serve its purpose. But it has proved, at least, a firm step in the right direction.

DEMOCRACY AND BUREAUCRACY

Charges that unions are "undemocratic" have been quite commonly made over the years. With such charges are usually catalogued the various practices for which unions are criticized: denials of free speech, arbitrary actions of one sort or another, etc. That these practices exist in some unions is clear. Indeed, the preceding sections have pointed out many of them.

No discussion of union democracy has meaning, however, without a prior inquiry into the meaning of the term when applied to unions and an analysis of effects of democratic unionism on collective bargaining.

It is first essential to point out that democratic government is not essentially "good" or "effective" government. Some of the best-run unions in the country from the point of view of economic returns to membership, responsibility, financial integrity, etc., cannot be considered democratic. The Amalgamated Clothing Workers and the United Steelworkers are cases in point.

It is likewise important to note that the trend toward centralization is no proof that unions are becoming less democratic. In most cases there is no evidence that centralization has gone farther than economic circumstances require. Moreover, on occasion, national union control leads to more liberal policies. For example, unions are less likely to bar workers from membership because of such factors as race, citizenship, or to close their books to new members if the national is in control of admission policies than if such control is left to the local. On the other hand, it is perfectly true that national control facilitates undemocratic methods and makes revolt against such methods more difficult.

The excessive delegation of authority, both executive and legislative, to union leaders, who in turn employ a large appointive bureaucracy, is not necessarily a structural defect of large political units. It endangers democratic principles but is not proof of lack of democracy.

Moreover, union constitutions meet fairly well the key structural requirements of democratic government—general suffrage, free election of legislators, and control by the legislators of expenditure of funds and

other executive actions. To be sure, the governments of unions frequently vary widely from the constitutional forms, and in actual fact most unions are operated by political machines, the members of which have a vested interest in perpetuating themselves in office.

The existence of political machines, however, is not an antidemocratic element per se. Political machines are an important element in all democratic governments. "If the advent of democracy depended on the dissolution of all informal political groupings (machines) and on the appearance of pure-hearted leaders, we should wait a long time. Actually, democracy requires only that there be reasonably free competition among rival machines, and that the self-interest of union leaders be canalized in directions beneficial to the membership."¹⁴

Where general suffrage and free elections exist, the existence or lack of democracy cannot be tested by the extent to which leadership acts in the "interest of the membership." The plain fact is that neither the members, the leaders, economists, nor newspaper editors can be certain where the "interests" of the membership lies. We have already noted that the demands of the rank and file can lead to costly strikes which a union dictator might have avoided to the economic benefit of all.

The really basic test of a democracy is found in the principles set forth in the Bill of Rights—the first ten Amendments to the Constitution of the United States. To test whether a union—or any other organization—is democratically operated, we can use the Bill of Rights to lay down these standards:

1. Do the members have freedom of speech, assembly, and press to the extent that they are free to criticize their leaders and to work openly for the defeat of their leaders at the next election without fear of reprisal?

2. Is there a judicial system within the organization which effectively insures the dissenter against reprisal and which effectively insures those accused of crimes against the organization a free trial?

The evidence already presented in this chapter indicates that many unions do not stand up well if judged by these criteria.

Gradual Bureaucratization

How do unions become undemocratic?

We have already noted the tendency for power to concentrate at the top as unions grow. This seems to be a natural evolutionary process which

¹⁴ Lloyd G. Reynolds, *American Economic Review, Proceedings*, Vol. XXXVI (1946), p. 381.

is only aggravated or hurried by the thirst for power of strong individuals. The rank and file seems to lose touch as the union grows large, its functions and responsibilities multiply, and the art of collective bargaining becomes more technical and embraces a wider area.

Power politics are not without importance in the gradual bureaucratization of an organization. An administration—even one composed of the most sincere and democratic minded citizens—must give some thought toward maintaining authority if its policies are to be carried out. The administration is confronted with what it regards as unfair and demagogic attacks on its policies made by persons who in the leaders' opinions at best want power merely for power's sake. In such situations union leadership is likely to resort to dubious devices and undemocratic acts in order to maintain its power. The practical results of patronage and the political machine replace the idealism of the "pure democracy." Beginning with the very best of intentions, desirous of power not for its own sake but in order to implement a constructive program, the idealist in office insensibly passes over to an increasingly exclusive absorption in power as such, explained away and justified by all sorts of rationalizations. This is the inescapable logic of power politics, but without power politics there is no administering or running a union.¹⁵

As control is centralized at the top, more and more of the union's administration becomes bureaucratized. The union's affairs are administered by a select group, partly professional or quasi-professional employees, partly "the administration," elective officials who have been in office so long as to have practically nothing in common except their antecedence with the rank and file. The net effect is likely to be more efficient administration; the creation of a special privileged caste of administrators within the unions; the limitation and virtual extinction of self-government; and the restriction of the civil rights of the members.

It should be emphasized again that the strangulation of democracy by bureaucracy is an impersonal process. The root cause is the indifference of the rank and file. With the union efficiently run, the average worker has little to get him excited. Like the average citizen or the average stockholder, he is content to let the machine run things so long as conditions are good. "Why waste time going to meetings? We pay officials to run the union," sums up the attitude.

The Remedies

What can be done to make unions more democratic? First of all, it is essential that free speech and the right to criticize be effectively safeguarded. One proposal is that special tribunals be established so that all union discipline cases can be reviewed. Another proposal calls for a bill

¹⁵ Herberg, *op. cit.*, p. 409.

of rights for union members clearly granting them the right of immediate appeal to the special tribunal without "exhausting their remedies" within the organization.

These reforms have a twofold aim. They would first of all increase the worker's job security by granting relief against arbitrary expulsions from unions and hence, under union-security provisions, from jobs also. And, in the second place, they would subject leaders of unions to more vigorous criticism. This would not only keep leaders on their toes but would also have the tendency to develop the talents of the potential leader in the lower ranks who could speak up without fear of reprisal. The net effect would then be to lay the basis for the existence of more than one machine within an organization and, therefore, to provide the employees with a choice.

Democracy has its cost, however. The more democratic an organization is, the more factional conflict there is likely to be within it. Such conflict has the advantage of keeping the leadership sensitive to membership opinion. It also has its disadvantages. For one thing, it facilitates infiltration into the union by Communists and other groups who are experienced factionalists and who are interested in converting the union into an instrument of a political party. Factionalism also can weaken the union in its dealings with employers and can increase industrial strife, because of the fear of union leaders to strike a bargain that is subject to criticism by their rivals. These costs must be recognized and accepted if democracy is to exist.

Perhaps something else, however, besides institutional or legal changes is needed. Mr. Will Herberg, himself a labor union official, feels that without the creation of a "labor conscience" these institutional and legal reforms will not be successful. Certainly, unless union members and the public at large take an interest in democracy, those who would rule by dictatorship will continue to deny basic rights to members of some unions.

LABOR RACKETEERING

Deficiencies in trade-union government which have been discussed in this chapter do not necessarily involve "racketeering" as the term is commonly used. What racketeering involves is the conversion of the union to the private benefit of the union official. A union official may engage in all sorts of undemocratic practices and still not convert the union into an instrument utilized primarily for his own benefit. John L. Lewis is a conspicuous example of a union leader who has not hesitated

to use extremely undemocratic methods. Even Lewis' enemies, however, do not accuse him of robbing the union treasury or of using bargaining sessions to obtain bribes for himself instead of wage increases for the miners.

In contrast, consider the case of Dave Beck. Born in poverty, he worked himself up from laundry driver to the presidency of the country's largest union, the Teamsters. Not satisfied with the power, prestige, and affluence of office, he used the union as a vehicle for personal moneymaking, greedily turning almost every opportunity to his profit. Finally, he was forced out by Senate committee revelations and an indictment for income tax evasion.

Or take the case of Joe Fay, once vice-president of the Operating Engineers' Union. A ruthless man who was publicly charged, but never prosecuted, for the murder of a rival (and honest) union official in 1937, Fay bullied his way to power in the New York City building trades after starting out working in a sand and gravel pit. He was finally indicted in 1943 for (1) extortion from building contractors; (2) kickbacks wrung from workers employed by these contractors; and (3) income tax evasion. The extortion charge sent him to jail in 1947.

Extortion and kickbacks go hand in hand with the labor racketeer. He takes his cut from the employer who is threatened with "labor trouble" if he does not "co-operate." At the same time the racketeer has his hand in the workers' pockets, depriving them of part of their earnings.

The power of labor racketeers easily grows once it starts. Fay extorted money from contractors to hire gangsters whose job it was to smash physically the leadership of a local union which would not go along with him. Such ill-gotten money can also be used to bribe police officials and politicians, to establish gambling and prostitution rackets, or to give other union officials of weak character a "cut" and thus pull them within the racketeer's orbit and control.

Fay had another angle. He had long been an official of several construction companies, thus working both sides of the fence. His contempt for workers whom he is supposed to represent is best illustrated by the attempt of contractors to add his extortion demands to wages. Fay refused. He wanted it to hire gangsters, to live lavishly, and to give \$1,000 per night parties for himself and his cronies.

Employers propositioned by Joe Fay and his ilk are not always reluctant to co-operate. It is often cheaper to pay extortion than to give wage increases. Moreover, the labor racketeer is not solicitous of the union workers. Working conditions need not live up to the contract requirements. Even the contract wage may be undercut. The contractors

testified against Fay only after the New York City District Attorney had subpoenaed their books and records. And since then many of these contractors have recommended Fay's parole.

Even in jail the power of the racketeer may not be broken. Fay's lieutenants ran his union affairs and put his wife on the union payroll while he was in jail. Politicians, contractors, and labor leaders made him the most visited man in jail. But the murders of two rival union leaders spotlighted Fay's influence. Publicity is the racketeer's worst enemy. Fay's influence is on the downgrade.

Not all labor racketeers grow up in the labor movement like Fay. Some are full-fledged lawbreakers before they become union functionaries. Some Capone gangsters took over unions in Chicago by force in the early 1930's. The Anastasia brothers and numerous others have done the same thing on the New York water front and have taken over unions as sources of income and power to add to their other rackets.

Causes of Racketeering

Labor racketeering is likely to flourish in those industries in which employment is unstable and strikes are extremely costly. In such instances, notably the building trades, the longshore and the amusement industries, the labor force changes so fast that opposition to leadership is difficult. More often than not, there are more men than jobs so that the power of dispensing jobs is great, and the fear of unemployment inhibits opposition. When opposition within the union arises, a beating or a murder can squelch it.

Employers find extortion cheaper than strikes, especially if it lessens union pressure for wage increases. In the building trades, a strike can ruin a builder. The sale of "strike insurance" by crooked union business agents is not uncommon in this industry.

Racketeering and Public Policy

Racketeering is thus a cancerous growth on the labor movement. It affects only a small portion of unions, but a significant enough group to be of public concern. Moreover, union racketeering is often a part of a larger setup featuring crooked business and political deals.

Obviously, such racketeering is more of a police than a labor-relations matter. Too often local authorities are unable or unwilling to cope with the situation, and sometimes state officials are in no better position. A bi-state authority established by New York and New Jersey is now trying to control crime on the New York City water front. Among the laws it must enforce is one barring those convicted of felonies from serving as

union officials. There is merit in such a role, judging by the way racketeers leave jail and resume their former ways.

Another need is more rigid control of union funds. By strict regulation here, the potential "gravy" which attracts racketeers can be eliminated. This is especially important with the large sums now going into welfare funds.

More than anything else is there need for better public morality and participation in union and political affairs. Unless the public is alert, and unless union members are alert, greedy men will take over their unions and their political parties. There is no substitute for a conscientious electorate and good officials. Combined with pitiless publicity, these are often better than new laws in keeping unions clean.

THE GOVERNMENT OF THE AFL-CIO

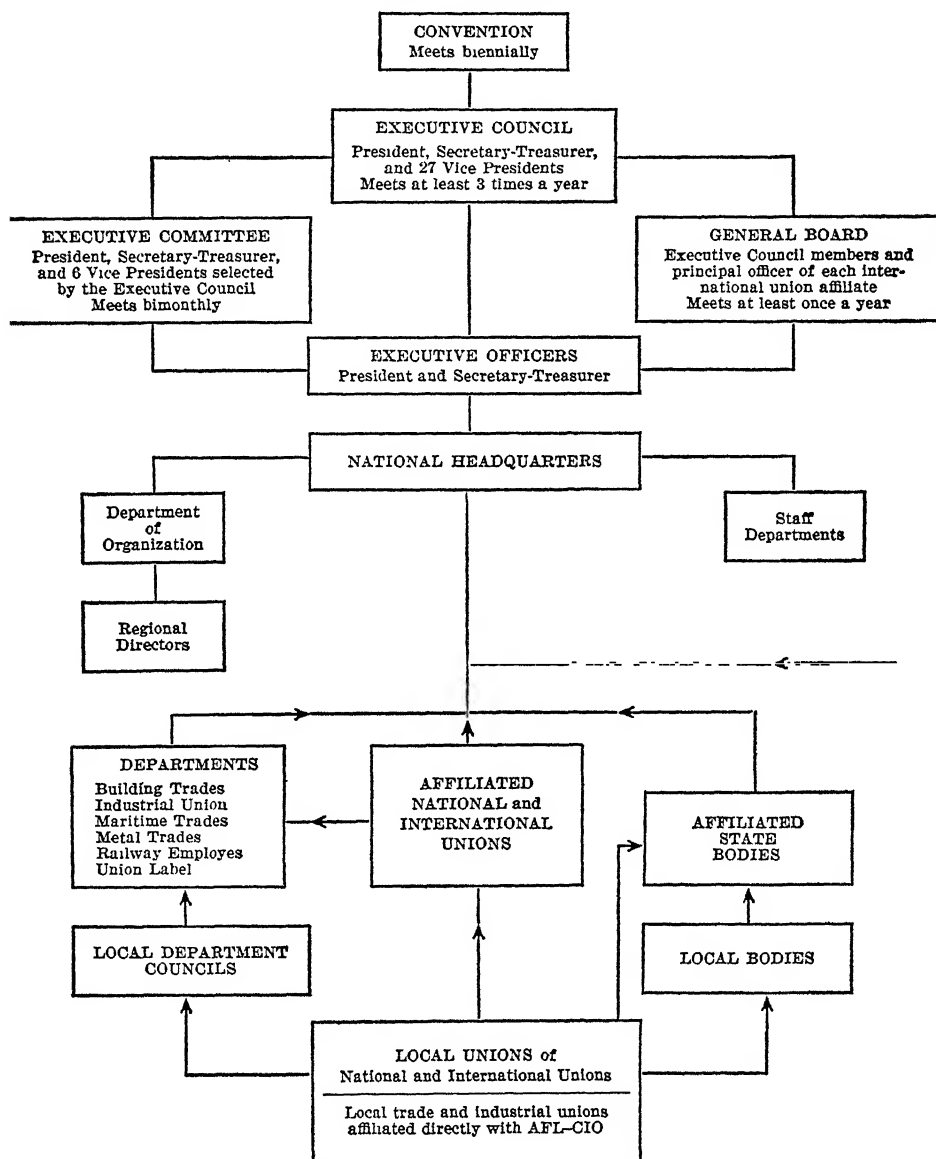
The government of the American Federation of Labor reflected the deliberate desire on the part of the founders of that organization to lodge the principal power in the hands of the national unions. The AFL constitution gave its President no authority to intervene in the affairs of its constituent unions. Consequently, a mild-mannered leader like William Green took refuge in his lack of authority when pressured to act against an affiliate. Stronger personalities, like AFL founder Samuel Gompers or George Meany, used the prestige of office to assert leadership when an affiliated union misbehaved, without violating the technicality that national unions are autonomous bodies.

Since the CIO was organized by former AFL unions, it is not surprising to find that its constitution was similar to that of the AFL. Thus the CIO constitution gave the president no statutory authority over affiliated unions. Until the death of Philip Murray in November, 1952, however, the CIO executives, Mr. Murray, and John L. Lewis before him, had great influence over affiliated unions. This was true not only because Lewis and Murray had, each in his own way, strong leadership personalities, and because both were the heads of powerful affiliated unions besides heading the CIO itself: Lewis of the Mine Workers, which he later took out of the CIO which he did so much to found; and Murray of the Steelworkers. It was also true because Lewis and Murray helped to organize many of the unions affiliated with the CIO, and other leaders in the CIO looked up to them and greatly respected their judgment.

But Walter Reuther, the last CIO head, had to tread softly. He won his CIO presidency over the stiff opposition of David MacDonald, Murray's successor as head of the Steelworkers, who supported the since

deceased Allan Haywood. Reuther is head of the Auto Workers, the CIO's largest affiliate, but the Steelworkers Union is almost as big. If the Steelworkers had left the CIO, as occasional rumor had it doing, the CIO might have broken up. Hence the ambitious Reuther was in no posi-

FIGURE 5
STRUCTURE OF THE AFL-CIO



SOURCE: U.S. Department of Labor, Bureau of Labor Statistics.

tion to enforce his will upon the CIO as Lewis and Murray once did—a fact which undoubtedly contributed much to Reuther's willingness to merge with the AFL without contesting with AFL president George Meany for the top position of the merged federation.

Figure 5 describes the formal governmental structure of the AFL-CIO. It is much like that of the AFL (and the CIO which was modeled on the AFL). The Executive Committee is a new development, which stems partially from the fact that the Executive Council was almost doubled in size after the merger.

The supreme governmental body is the annual convention which meets biennially. Between conventions, the Federation is ruled by its Executive Council composed of the heads of twenty-seven unions who are vice-presidents of the Federation, plus the AFL-CIO's only two full-time salaried officers, the President and the Secretary-Treasurer. The Executive Committee which meets bimonthly is a committee of six members of the Council, elected by the Council, plus the President and Secretary-Treasurer. AFL-CIO vice-presidents receive no salaries from the Federation.

National union control of the AFL-CIO conventions is insured by the method of representation. Each national union is entitled to send delegates to the convention in accordance with the formula based upon the membership for which monthly per capita tax has been paid to the AFL-CIO, shown in Table 11.

TABLE 11
MEMBERSHIP FORMULA FOR NATIONAL UNION REPRESENTATION
IN AFL-CIO CONVENTIONS

Per Capita Tax Paid on Membership	Delegates Permitted to Vote
Up to 4,000	1
4,000 up to 8,000	2
8,000 up to 12,000	3
12,000 up to 25,000	4
25,000 up to 50,000	5
50,000 up to 75,000	6
75,000 up to 125,000	7
125,000 up to 175,000	8
Over 175,000	9+1 for each additional 75,000

In contrast, directly affiliated locals—that is, local unions which are affiliated with no national union but are attached directly to the Federation—are accorded just one delegate, as are city and state federations and departments.

Most delegates to AFL, CIO, and now AFL-CIO conventions are officials of affiliated unions. The rank and file are more apt to be represented at conventions of affiliates. This does not, of course, imply that the AFL-CIO conventions do not represent rank-and-file opinion.

The AFL and CIO organized local unions for direct affiliation to it only when no affiliated national union has jurisdiction over the persons involved. After the merger, most of these unions were turned over to a national union. City and state councils are co-ordinating bodies which were chartered by the AFL and CIO in cities and states for the purpose of giving direction and leadership to affiliated unions, and to represent the AFL or CIO point of view before city and state officials. Often the leaders of these central bodies have considerable influence in their areas. They assist unions with bargaining, represent them before public bodies, and generally aid and co-ordinate their activities. The merger agreement provided the state and city AFL and CIO organizations had until December, 1957, to merge voluntarily. After that, the AFL-CIO was supposed to force merger. By the deadline, less than half had merged.

The Industrial Union Department was created to give the CIO unions a co-ordinating body within the merged Federation. Other unions with industrially organized segments have since joined this Department, but it remains principally a focal point for the old CIO group, and a platform for Walter Reuther, head of the Department, to expound his views as he formerly did when President of the CIO.

With the exception of the Union Label Trades Department, which is a propaganda organization to promote the use of union-made goods, the other Federation departments act as co-ordinating bodies for craft unions which operate in the same industry. Their independence and importance varies considerably. Thus the Railway Employees Department is composed of the six (seven until 1952 when the Boilermakers and the Blacksmiths amalgamated) unions which have organized the railway shop employees. It is the most independent of the departments, having its headquarters in Chicago instead of in Washington where the AFL-CIO headquarters are located. The Railway Employees Department, through local divisions on each railroad on which it has unionized the shops, acts as the collective bargaining agent for the shop employees.

The Metal Trades Department and the Building Trades Department are less closely knit organizations. The former operates principally in shipyards; the latter, of course, in the building trades. Both establish local councils which act as the bargaining co-ordinator or agent for the unions involved. Both these departments play an important role in ironing out jurisdictional disputes among their members and often act as bar-

gaining agents for the unions in their field which operate in their areas.

It is possible for one international union to be a member of several AFL-CIO major departments. In fact the International Brotherhood of Electrical Workers has membership in three, and other unions are members of at least two.

The AFL-CIO services its affiliates with a wide variety of functions. It attempts to decide disputes among them; it co-ordinates and supplements their organizing work; it supplies them with a series of news publications, maintains a legal department, and acts as official representative in political matters, although it has been careful not to back a particular political party because of the differences of views among its members. In actual fact its political activities are largely concentrated in promoting pro-labor legislation in the states and in Congress and in opposing legislation considered generally detrimental to labor.

The AFL-CIO receives its funds from the per capita tax of 4 cents per month which each international union pays, supposedly, on each of its members. We say "supposedly" because sometimes the larger unions tend to report to the AFL-CIO a membership considerably less than they have in order to keep down their cost of belonging to the Federation. As a result, AFL-CIO membership figures which are based upon the per capita taxes received may be understated.

Even before the AFL-CIO merger, AFL President George Meany took a firm stand against misbehavior on the part of unions affiliated with the Federation. For example, he led the fight which resulted in the expulsion of the racket-ridden International Longshoremen's Association, and the vain attempts to displace the ILA by a clean union in the Port of New York.

The CIO's prior expulsion of the Communist-controlled unions and Meany's tough attitude toward racketeers set the stage for the governing body of the merged Federation to stand in judgment on the ethics of the leaders of unions affiliated with the Federation. Article VIII (7) of the AFL-CIO constitution set up procedures to implement the doctrine, adopted in the new merger constitution, that affiliated unions shall be free of corrupt influences and totalitarian agencies. The Executive Council is empowered to conduct an investigation, to direct an affiliated union to take action on these matters, and on a two-thirds vote to suspend an affiliate pending action by the convention. This was the procedure followed in the suspension of the Teamsters' Union, which the convention then expelled.

In order to handle questions under Article VIII (7), the AFL-CIO has adopted a number of codes of ethics designed to eliminate:

1. Racketeers, crooks, communists, and fascists from positions of leadership;
2. Conflicts of interest arising from union leaders engaging in "business activities";
3. Health and welfare fund management.

Earlier in this chapter, we discussed point 3 (see Table 10, p. 116). Under point 1 (racketeers, etc.), the AFL-CIO obligates affiliated unions to clean out officials convicted of crimes of moral turpitude, or who are known as crooks, communists, etc., or who invoke the Fifth Amendment to avoid proper scrutiny by a proper legislative or law enforcement agency.

The conflict of interest point deals with situations such as have been revealed by the Joe Fay or Dave Beck type of leadership whereby a union leader has a substantial personal financial interest in a concern or concerns dealing with unions which they represent. The AFL-CIO demands that union officials be "scrupulously careful to avoid any active or potential conflict of interest."

The Ethical Practices Committee of the AFL-CIO, headed by the President of the Machinists' Union, holds hearings on charges and recommends action where the Codes of Ethics have been breached. Several small unions and as noted, the Teamsters, have been ordered to clean up, be suspended, or put into receivership. The AFL-CIO, conscious of criticisms and anxious to avoid restrictive legislation, is regulating the conduct of affiliates to a degree not even considered by the AFL of William Green's day.

QUESTIONS FOR DISCUSSION

1. Debate the pros and cons of this issue: "*Resolved*—It is impossible for unions to be democratic and to be run effectively."
2. What are the factors that determine the *structure* of a national union? Do these same factors determine the *government* of a union?
3. Is there a local union in your area? Try to find out about how it is run and who runs it, and discuss your findings in class.

SUGGESTIONS FOR FURTHER READING

BARBASH, JACK. *The Practice of Unionism*. New York: Harper & Bros., 1956.
An interesting and instructive account of unions in action.

HERBERG, WILL. "Bureaucracy and Democracy in Labor Unions," *Antioch Review*, Fall, 1943.

A masterful and oft-reprinted analysis, by a union official, of the problem of maintaining democracy in unions.

SAYLES, L. R., and STRAUSS, GEORGE. *The Local Union: Its Place in the Industrial Plant*. New York: Harper & Bros., 1953.

A study of local unions, how they operate, and what the people in them think and believe.

PART III
Collective Bargaining

Chapter 4

ORGANIZING AND NEGOTIATING

How do workers become organized in a union? What happens when collective bargaining begins? What are the wage and non-wage issues which concern labor and management in the collective bargaining process? What about strikes, "industry-wide bargaining," and "labor monopoly"? These vital questions will be the subject of our discussion in this and the following three chapters.

ORGANIZING

When a union representative sets out to unionize a group of workers, what does he do? There are probably as many organizing techniques as there are organizers, but some general patterns have emerged.

The unorganized plant may be called to the union's attention in a variety of ways. Often employees contact the union to interest it in establishing a local union for them. Other times the employers with whom the union deals stress the competition of nonunion firms and give the union representatives names and places as well as facts and figures. And frequently, the union will itself map out a drive to bring the nonunion plants within the fold.

The nature of the organizing campaign will depend upon the skill of the union leadership and the nature of the objectives. For a small group, the union drive may consist exclusively of personal contact of workers by the union representative. Organizing campaigns involving large companies include radio and newspaper publicity, leaflet handouts, large public meetings, and other methods of arousing enthusiasm in addition to the essential personal contacts.

As soon as possible, the organizers attempt to establish contact with sympathetic workers in the plant. Such workers act as volunteer organizers within the plant and form the nucleus of the budding union organi-

zation. As the union following increases, membership meetings are held, and a program for building a local union is developed.

Most union organizers recognize today that their job is growing progressively more difficult. In most industries, the large firms have been organized. Future increase in membership can come only from the laborious task of organizing hundreds of smaller firms with relatively small labor forces. Where large companies still remain unorganized, they are "tough nuts to crack." If they have held out this long against the onslaught of union organization drives, they apparently know all the tricks of defeating attempts to organize. Moreover, a powerful weapon has been put into the hands of antiunion employers in the form of the Taft-Hartley Act. As we shall see in Chapter 23, this Act enables employers to delay representation proceedings by charging the union with unfair labor practices with the result that employees lose interest in the organizing drive and the company keeps out the union.

Unions are often careful to select organizers who fit in with local requirements. Sending a New Yorker to the South is not likely to achieve as good results as employing a native southerner for the job. Organizers of the same ethnic or racial groups as the plant workers often find it easier to gain recruits than do those of other stock. The smart organizer tries to gain the allegiance of the natural leaders within the plant—those who are respected and who will be listened to by their fellow workers.

Winning Union Recognition

Before the passage of the Wagner Act in 1935, if unions wished to win the right to represent workers, and if management did not voluntarily agree to recognition, the only way to settle the question was a strike. If the union won the strike, it was recognized as the bargaining agent for the workers, at least until such time as management could oust it. If the unions lost the strike in the first place, as was typical, there would be no union recognition as bargaining agent. Under such conditions, union organizing strategy was directed mainly toward organizing key workers whose skill or strategic position enabled them to cripple production by a strike.

Today, procedures are provided under both federal and some state laws¹ for peaceful determination of collective bargaining representatives. The Wagner Act, and later the Taft-Hartley Act, provided that "representatives . . . selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes shall be the exclusive representatives of all the employees in such units for the

¹ See Chapters 23 and 25.

purposes of collective bargaining. . . ." Congress gave to the National Labor Relations Board the power to conduct elections or otherwise to determine what union, if any, shall represent a given group of workers for collective bargaining. Once a union is certified by the NLRB as the bargaining agent, an employer must deal with it.

The passage of the Wagner Act changed union organizing tactics. Instead of aiming for a strike, unions now aim to win an election. Instead of concentrating on a few skilled or strategically located workers who can shut down the plant, unions now attempt to convince a majority to vote for the union. The vote of an unskilled worker is equal to that of a skilled man in the same bargaining unit. The area of the organizing campaign has thus been broadened from the skilled to the entire plant. In some ways today it includes the whole community.

Many unorganized groups of workers are concentrated in areas, such as the South, where there is great public distrust of unions. When the Textile Unions try to organize mills in various southern towns, they frequently find arrayed against them not only employers but also local government officials, civic groups, newspapers, and church groups. Southern textile mills remain unsigned not only because of the effective use made by employers of the protection afforded them by the Taft-Hartley Act but also—and more important—because the unions have not been able to sell themselves to the southern workers and their communities.

WHEN THE UNION ENTERS

A union organizing campaign, by its very nature, upsets existing relationships and unbalances emotions within a plant. The job of the union organizer is in many respects that of initiating the transfer of the employees' loyalty from the employer to the union. To accomplish this he is likely to point up existing or imagined grievances, to promise extraordinary and often unattainable benefits, to appeal to the worker to join with his fellows at the peril of being a social outcast, and to give impetus to the impulse of aggression and hostility which exists dormant within most individuals.²

The purpose of the union, of course, is to win the representation election conducted by the National Labor Relations Board or otherwise to gain recognition from the employer as the bargaining agent. To accomplish this purpose, the union must sell itself to the workers, and just as in political campaigns, almost no holds are barred. Under such circum-

² B. M. Selekman, *Labor Relations and Human Relations* (New York: McGraw-Hill Book Co., Inc., 1947).

stances, the employer finds himself under extraordinary temptation either to talk back or to develop a keen emotional animus toward the union and its personnel. Some employers also feel that they should keep the record straight for their employees, that they should advise their employees to vote in representation elections so that decisions will not be made by default, and that they should correct grievances which are called to their attention by the union organizing campaign. If done properly and accompanied by no acts of coercion toward the union, such acts are not considered unfair labor practices under federal labor law.

On the other hand, the more heat generated in the organizing campaign, the harder it is to get down to peaceful collective bargaining, if the union wins representation rights. Despite the fact that the Taft-Hartley Act and various state laws do provide a peaceful means for determining bargaining representatives, pre-election organizing campaigns and the elections themselves are still sometimes characterized by violence, name calling, and picket lines. A major source of this conflict between employer and union arises out of the attempted exercise by representatives of each of the prerogative of free speech. Employers are prone to characterize union organizers as Communists, while organizers are equally prone to paint nonunion employers as reactionary ogres who will cut wages unless the workers organize.

Employers who attempt to convince their employees that they are better off without a union may find that they have violated the Taft-Hartley Act by intimidating workers in the free exercise of their rights to choose their bargaining agent. Union organizers, on the other hand, complain that they are often denied equal opportunity and facilities to get their viewpoint across to employees, and when they stage mass rallies or picket at the factory gate so as to influence employees leaving or entering the plant, they may find that the employer has obtained an injunction prohibiting such activity. Some of these problems involved in the exercise of free speech by employers and picketing for organization purposes will be discussed in Chapter 23 in connection with analysis of the Taft-Hartley Act.

Problems of Early Adjustment

When the election is over, and if the union wins bargaining rights, the parties sit down at the conference table to negotiate an agreement which will govern their relationship for the next year, or often with amendments in the wage-and-hour provision for even longer periods. Then there is a real need for clear heads and mutual understanding, not name calling and emotionally generated heat. But such a change in atti-

tude, although undeniably beneficial to stable labor relations, cannot be achieved overnight. Charges, recriminations, and abusive remarks made in the heat of the preceding battle are not quickly forgotten. The union has the job of making good on as many promises to the employees as it can, and of establishing itself firmly not only with those employees who voted against it but also with those who have been lukewarm. The union representative therefore is likely to make extravagant demands and to be unwilling to compromise.

The employer, on the other hand, often retains the view that the employees were better off without the union, and he is disinclined to yield any concessions which would strengthen the union position and thus indicate to employees who were either lukewarm in their adherence to the union or who voted against union representation to believe that there were substantial benefits to be gained through retention of the union as bargaining agent.

As a matter of fact, stable bargaining relations are unlikely to be achieved until the employer finally accepts the idea that the union is in his plant to stay. This is a fact which many employers find very difficult to accept. Many employers rationalize their own opposition to the union by accepting the arguments which they so strongly urged to their employees; namely, that the union officials are outsiders who are not interested in the welfare of the workers, that the employees do not need a union, that the employer has always been fair to the employees, and that once the employees have the sad experience of seeing how corrupt the union officialdom is and how little it accomplishes for the workers, they will oust the union and return to the happy state of affairs which existed prior to the advent of the union organizer on the scene.

Management has the opportunity to start bargaining relations off on the right foot by dealing with the union honestly and fairly as a permanent institution and by forgetting any unpleasantness that developed during the organizing campaign. Management can also be helped by employing competent advisors who are experienced negotiators. At the same time, the union leaders can help to ease the tension by sending in new personnel to conduct negotiation of the contract—persons who cannot be charged with responsibility for any false accusations or violence which may have occurred in the course of organizing the plant.

Grievance Settlement

Both labor and management who are parties to a new collective bargaining relationship can be aided if they establish "grievance machinery" before negotiation of the contract. Generally, grievance machinery

is incorporated in union contracts because peaceful labor-management relations require an acceptable efficient method of settling disputes which arise over interpretations and applications of the labor agreement. When the contract is being negotiated, it is never possible to anticipate all situations which might arise during the term of the agreement. Nor is it possible to forestall all disputes over the meaning of specific contract language or the application of contract clauses to specific situations.

The typical union-management agreement, therefore, contains provisions—"grievance machinery"—for the settlement of disputes arising out of contract interpretation and application. The grievance machinery usually includes a series of steps with a higher level of union and management authority participating at each step. To induce settlement without a work stoppage, more and more contracts provide for a terminal step of arbitration, to which are referred disputes which the parties cannot settle in any of the earlier stages. By 1952 the U.S. Bureau of Labor Statistics found that 89 per cent of the contracts which it examined provided for such arbitration.

Before the contract is negotiated it cannot, of course, be interpreted, but during the pre-negotiation stage, and while the contract is being negotiated, grievance machinery can perform several important functions. First of all, it can provide a way to let off some of the steam which was generated during the organizing campaign. Persons with complaints, or those who think they have complaints, can at least obtain a hearing from the grievance setup. Many grievances are settled simply by letting the person aggrieved talk.

By working together on the grievance committee, management and labor representatives get to know each other, always a necessity of good relations. Prompt, efficient settlement of complaints at this stage is one way each party can demonstrate good faith.

Another advantage of establishing a grievance machinery at this stage is that it removes petty matters and individual complaints from the contract negotiations. The labor contract sets general rules and regulations. Negotiations are only made difficult if cluttered up with individual complaints. Smoothly working grievance machinery permits more thoughtful and deliberate negotiations and removes from them problems of individual employees, which are not properly the subject of a collective agreement but rather should be handled as grievances.

Negotiating the Contract

Negotiation of a contract, whether by a new union or an established union, is always a battle of wits between the representatives of manage-

ment and the representatives of the union. In many cases, the general pattern of the contract will have been set before the negotiators even sit down at the conference table. This is true not only of the amount of any wage adjustment sought by the union but also with respect to the general content of the contract. Quite often the union will present the employer with a form of contract used by other organized employers in the same industry or by the same union in another industry. Or it may be that the employer will submit a form of contract which contains various clauses taken from other contracts in the industry or area.

Even if neither party presents a proposed contract, the "Big Bargains"—like those between the United Auto Workers and General Motors, the United Steelworkers and United States Steel—or the big bargain in the particular industry or area may well have decided the general tenor of the agreement. But even where the general pattern has been set, the course of bargaining between the employer and union representatives will determine the extent to which the general pattern will be modified to suit the needs and peculiarities of the particular firm involved.

Collective bargaining has been euphemistically referred to as "collective arguing." Since both parties sit down together with the intention of bargaining, they are likely to conceal the ultimate position which they are prepared to take and commence bargaining from extreme positions. If the union is prepared to settle for a 10 cents an hour increase, it may submit a demand for 30 cents an hour. Although the union's intention, when it makes such extravagant demands, is usually apparent to a skillful management representative, submission of such demands at the outset of negotiations accomplishes two useful purposes from the point of view of the union. In the first place, there are always certain extreme elements in the union who vociferously urge that large wage adjustments, such as 30 cents an hour, be obtained. Such a demand must, therefore, be presented at the bargaining table and a retreat taken from this extreme position only after there appears to be a last ditch stand taken in the face of overwhelming employer opposition. In the second place, human nature is so constituted that management may be readier to settle at 10 cents an hour, and management representatives will feel that they have done a better job of bargaining if the union demand starts at 30 cents an hour than if it starts at 10 cents. The employer cannot, of course, know precisely what the union minimum demand really is. By starting from a high figure, therefore, the union hopes to improve its chances of picking up a few cents an hour which it might not otherwise have obtained had it started at a figure closer to the true minimum.

This method of bargaining is not always either smart or successful.

Experienced management negotiations often refuse to make a genuine offer until the union "gets realistic." Often the only result of fantastic union demands is a delay in negotiations or an increase in bad feeling.

Collective bargaining frequently looks like a show. Sometimes the oratory and gesticulations are made to impress the parties on the other side of the table. Sometimes there may be an actual audience, as is the

FIGURE 6

THE INDEX TO A TYPICAL COLLECTIVE LABOR AGREEMENT
SHOWING THE RANGE OF SUBJECTS COVERED

Table of Contents			
	Page		
Witnesseth Clause (Management Clause)	3	DISCIPLINE—Article IX	19
RECOGNITION—Article I	4	Right of Company to lay off, discharge	19
Bargaining unit	4	Warning procedure	20
UNION SECURITY—Article II	5	HOLIDAYS—Article X	20
Union shop	5	Enumeration of holidays	20
Checkoff	6	WAGES AND HOURS—Article XI	21
BULLETIN BOARDS—Article III	6	Work week	21
Union notices	6	Notice of change of work shift schedules	21
GRIEVANCE PROCEDURE—Article IV	7	Overtime provisions	21
Three stages—time limit	7	Saturday and Sunday work	21
Limitation on presentation and appeal	8	Holiday pay	22
Grievances covering claim for wages lost	9	Conditions of eligibility—holiday pay	22
Regulations for stewards handling grievances	10	Observance of holidays under various conditions	24
Grievance meetings, time and pay	10	Individual pay adjustments and job evaluation	25
Pay adjustment to date of grievance	11	Time schedule for rate increases	25
ARBITRATION—Article V	11	Night shift premium	25
Method of arbitration	11	Pay while waiting for work	25
Scope of arbitration	11	Equal pay for equal work, male and female	25
STRIKES AND LOCKOUTS—Article VI	12	Minimum starting rate	26
No strike agreement	12	Work performed by work leaders and super- visors	26
PENSION PLAN—Article VII	13	Reporting pay	26
Negotiations on modification	13	Funeral leave pay	27
SENIORITY—Article VIII	13	COST-OF-LIVING INCREASE—Article XII	27
Probationary period—new employees	13	Method of determining cost-of-living allowance	27
Former Chandler-Evans and Warwick em- ployees	13	Increase in 1956	29
Basic seniority clause	14	INCENTIVE AND TIME STUDY—Article XIII	29
Company exemption—8%	14	Bonus system in Small Tool	29
Union officials heading seniority list	15	Production standard	30
Availability of list to stewards	15	Bonus system for certain nonproductive em- ployees	30
Transfers—retention of seniority	16	Pay rate for rework not fault of operator	30
Interruption of seniority	16	Basis for study	30
Temporary layoff	17	Basis for restudy	32
No seniority for aliens	17	VACATIONS 1956-1957—Article XIV	34
Policy regarding transfer from one shift to an- other	17	Eligibility date and pay schedule for years of continuous employment	34
Transfer in lieu of layoff	18	Procedure for employees entitled to 3 weeks	35
Policy of Company to transfer to openings	18	LEAVE OF ABSENCE—Article XV	36
Promotion out of bargaining unit	18	Conditions of leave for union business	36
Notice of layoff	19	Conditions of leave for union conventions	37
Recognition of Divisions—seniority	19	DURATION—Article XVI	37
		Termination date	37
		Conditions for modifying or extending	37

case when the union business agents bring with them a large negotiating committee representing the membership. Then the business agents are anxious to impress the negotiating committee with their skill as negotiators and the fact that the employer is a tough party to deal with. So they play to the galleries. Occasional walkouts by the union or management representatives from the bargaining table have come to be accepted as part of the byplay of collective negotiations.

The union, of course, does not have a monopoly on "acting ability."

Employers also have become efficient in the art of predicting dire consequences if compelled to grant the union demands. When a representative of an employer association, or an outside consultant or lawyer, handles the company negotiations, he may also engage in theatrics to impress management personnel on the negotiating committee. Sooner or later, however, both sides get down to business, and usually a contract is hammered out. (See Figure 6 for the index of subjects covered in a typical agreement.)

Satisfying the Constituents

No matter how smart the union may be or how fair the employer (an employer's being fair does not mean inept bargaining on his part), there will always be some employees in the plant who will be dissatisfied with the results. Usually, they are groups to whom the union promised something that was not obtained. They are the union's problem as well as the employer's. Moreover, difficulties in the home may cause some employees to discover "grievances" which are merely figments of their imagination, for their private lives may have upset them emotionally.

These problems require sincere, sympathetic, and honest treatment by both management and union officials. Grievances must be settled, not won. It does no good to prove that a grievance did not really exist. Pent-up grievances, however imaginary, are the sparks that flame into "quickie" strikes. A real attempt must be made to find the sources of the difficulties and to correct them even if they are totally unrelated to the grievances presented; otherwise dissatisfaction continues.

Even under the best conditions, a new relationship between management and labor may be hindered by an occasional "wildcat" stoppage led by irresponsible elements who cannot be controlled by union officials. It must never be forgotten that union officials are elected and, to retain their positions, cannot be too tough on contract breakers until their relationship with management is firmly established. Sympathetic understanding, rather than emotional reaction, is needed in crises of this kind. Patience and good faith bear fruit. Often it takes a long time to establish good management-union relationships, but those who have them testify that they are worth waiting for.

If, however, "wildcat" strikes or slowdowns continue despite company patience and good faith, it may be because understanding has degenerated into appeasement. Then a firm management hand, discipline of those who violate the contract, and a "no more nonsense" discussion with the union are usually the best methods of ending the trouble.

THE SOCIAL SETTING OF COLLECTIVE BARGAINING

The attitudes and issues which develop in the process of collective bargaining are profoundly affected by the social environment in which workers and employers live and work. Although collective bargaining technically concerns only the conditions and terms of work in a particular plant or company, the demands made by workers and the reactions of employers to such demands may reflect broad sociological patterns affecting the community or even the country as a whole. The struggle between management and unions is to some extent a struggle for status—for recognition and respect and security. This contest is not confined to the factory. It can be seen in the attempts of labor and management to gain the favorable attention of public opinion. It is likewise to be seen in attempts of labor and management groups to influence election of public officials. Union officials who live in a small-town atmosphere of hostility to unions can hardly be expected to sit down with management with anything other than an attitude of suspicion and distrust.

Ethnic and cultural patterns in the community leave a characteristic imprint on collective bargaining relations. Steelworkers have frequently been Italian-born or Polish-born; garment workers, Jewish and Italian in background; automobile workers often Southerners, white and Negro. These diverse cultural and ethnic backgrounds undoubtedly influence union policies and the course of collective bargaining in particular industries and localities.

Likewise, some of the frictions which develop in a plant may be attributable to deep-rooted tensions in the community growing out of racial conflicts. Antagonism between Negro workers and white foremen may merely mirror the broader struggle for status of underprivileged Negro citizens who are discriminated against in the community and of white citizens taught early in life to keep "the Negro in his place."

The social patterns which affect collective bargaining are not limited to the local community. The changing composition of the population in terms of age, for example, affects the type of issue which will arise in collective bargaining. By 1960, it is estimated that from 15 to 16 million persons will be over 65, whereas in 1952, those over 65 numbered only 11.5 million. The growing number of older persons in the population adds new impetus to the drive of unions for pensions.

Similarly, the scope and content of federal and state legislation has a far-reaching effect upon the nature of union objectives in collective bargaining. It is probable that if employers had joined with labor in

urging that the old age and survivors insurance program be liberalized and made more inclusive, the movement for employer-financed pension plans would never have gained momentum. However, with a retired worker entitled to only \$26 a month from the government prior to the 1950 liberalization of the Social Security law, it was inevitable that unions would seek to bring pensions into the scope of collective bargaining. If the Social Security Act had been liberalized earlier, industry might not have been forced into the present haphazard patchwork of varying pension benefits.³

In coming years, the young men who enter our labor force will be quite different from the men who entered the labor force at the beginning of the century. They will, for the most part, be American-born, for the great influx of immigrants has ended. They will be better educated than ever before. They will have grown up in an era of full employment, rising standards of living, and prosperity. They will have seen unions stall great industries and union leaders command the respect of management and public officials alike.

Such employees will demand more from industry than their parents. They will expect industry to maintain the flow of purchasing power and to create the new jobs requisite to full employment. An increasing number of them will have some understanding of economics and of the problems of production and distribution in a capitalistic society. They will want to express their opinions about management policies if management fails to take steps which they believe are necessary to achieve these objectives. This undoubtedly means that new conflicts impend in the field of demarcating the scope of "managerial prerogatives."⁴ It also means, however, that we shall have a more intelligent and better educated body of workmen who perhaps can, through collective bargaining, work out a sensible labor policy in the public interest.

THE COLLECTIVE AGREEMENT

A collective bargaining agreement today is customarily a lengthy document, often drawn in final form by an attorney, which sets forth the basic rules and standards which will govern the relationship of the employer and employees during the duration of the contract. The contract terms are binding in the usual case not only on union members but also on all employees, whether members of the union or not, who are included within the bargaining unit. Union contracts customarily include

³ Pensions and collective bargaining are discussed at length in Chapter 19.

⁴ See pp. 159-62 for a discussion of management prerogatives.

clauses governing wages and hours, vacations, grievance procedure, union security, rights and responsibilities of management and union, promotion, layoff and discharge, and various working conditions peculiar to the plant or industry. As already noted, an increasing number of union-management agreements provide for arbitration of disputes which are not resolved by the grievance machinery.

Duration of Agreements

Most union agreements used to be of 1-year duration. Seventy per cent of the union contracts examined by the Bureau of Labor Statistics in 1951 were of 1 year's duration.⁵ In each year since then, however, the Bureau has noted an increasing trend in preference for contracts of longer term. In the July, 1956, issue of the *Monthly Labor Review*, the Department of Labor stated for the first time that "the traditional one year term is no longer predominant, at least among major agreements." It reported that approximately 65 per cent of 1424 agreements studied in 1956 were for terms of 2 years or more. Twenty-one per cent of the agreements covering 27 per cent of the workers were for terms of 3 years or more.

The trend to longer-term contracts was greatly stimulated by the execution in May, 1950, of a 5-year contract between General Motors Corporation and the United Automobile Workers.

The General Motors contract provided for periodic cost-of-living adjustments geared to changes in the Bureau of Labor Statistics index, annual pay raises of 4 cents an hour regardless of fluctuations in the cost of living, pension benefits, and a modified union shop. It was to run for 5 years without the right by either party to reopen or make any new demands on the other. Union president Walter Reuther hailed the contract as an "historic" agreement, and General Motors president C. E. Wilson called it "unprecedented" and predicted that it would be a "stabilizing influence on the economy of the whole country."

The execution of this contract was looked upon by some economists as indicative of a new trend in collective bargaining agreements. Actually, however, this long-term contract was the result of the peculiar needs, at the time, of the parties to the agreement. Walter Reuther, president of the Automobile Workers' Union, needed a period of relative stability to quell potential opposition in the UAW and to consolidate his own position and control. General Motors, confident of its own ability to increase productivity at a rapid rate through research and mechanization, was willing to gamble 4 cents an hour per year in so-called productivity increases in return for what they thought was the assurance of freedom

⁵ *Monthly Labor Review*, July, 1951, p. 35.

from further wage demands other than that required by the cost-of-living adjustment. In the following 3 years, however, no other company outside the automobile industry and the jurisdiction of the UAW was willing to embark upon a similar 5-year collective bargaining agreement with any union. Nevertheless, interest in contracts of 2 or 3 years' duration remained high.

The Living Document Issue

In 1953, in the third year of the 5-year General Motors contract, the union leadership found the contract becoming increasingly unfavorable and in effect notified the company that if it wished to preserve good labor relations it had better release the union from the contract. Specifically, the union requested that General Motors grant a boost in the annual improvement factor, incorporate accumulated cost-of-living increases into the base rates so as to insulate the employees against a declining price index, adjust wages of skilled workers, increase pension benefits, and eliminate a compulsory retirement goal. The union had made similar requests on previous occasions during the term of the contract which had been ignored by General Motors, but the union now was provided with a pretext for reopening by reason of the fact that the United States Bureau of Labor Statistics intended to discontinue the consumers' price index (old series), and this series was prescribed in the General Motors contract as the basis of cost-of-living adjustments. Some agreement, therefore, had to be obtained with respect to use of a substitute index.

The union took this opportunity to make demands upon the company which it said it could not have anticipated would become necessary at the time the 5-year contract was executed, since the entire wage-cost-price system had been substantially altered by the advent of the Korean war. The UAW accompanied its demands with the pronouncement of a new theory of industrial relations, namely, that collective bargaining agreements must be administered as "living documents," which presumably means that they are subject to amendment whenever the union considers that they have become burdensome.

The UAW served notice that it would not, in the future, execute long-term contracts unless management demonstrated that it would deal with its workers on the basis of the "merits and equities of the issues involved" and would not attempt to "use legalisms to chisel away at the intended substance of the agreement that it signed." General Motors recognized that there were certain equities in the union position and that the Korean situation had altered the wage picture from that which had

existed at the time the 5-year contract was executed. Moreover, they recognized that some concessions would have to be made to the union in order to assure an adequate labor supply, and, of equal importance, to assure political stability within the union itself. In May, 1953, therefore, General Motors agreed to alter the contract by changing the annual productivity increase from 4 to 5 cents, incorporating 19 cents of cost-of-living increases into base pay and increasing the pay of certain skilled employees.

A Paradox in Collective Bargaining

The quandary in which General Motors found itself highlights a basic paradox in collective bargaining. Management is interested in executing the most favorable contract possible. Management representatives are encouraged to drive as hard a bargain as possible, and when the agreement is reached and embodied in a contract, both parties are legally bound by the terms of the contract. But while the provisions of the contract are legally enforceable, management must always take account of the realities of industrial life. The fact is that efficient production cannot be obtained under a contract which, by reason of changing economic circumstances, has become—in the minds of the employees or union leadership—unfair. It is for this reason that employers have sometimes found it expedient, even under 1-year contracts, to reopen wage negotiations voluntarily and to grant wage increases when a higher rate seems warranted by the economic situation.

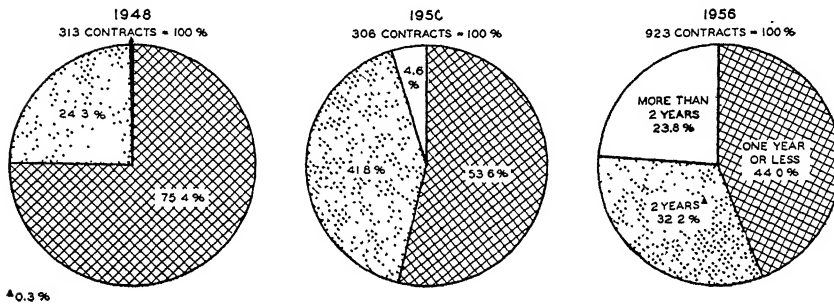
Even if managements refuse to acquiesce in altering the terms of an agreement, as did General Motors in 1953, competition may force them to do so. Ford at first refused even to consider Reuther's demands for a basic change in the 5-year contract, and stuck to its position despite a crippling walkout in a key parts plant.⁶ When, however, General Motors acquiesced, Ford had to surrender or risk losing its market position.

In spite of this experience, industry, as well as unions, have continued to look ever more favorably on long-term agreements. At the conclusion of the 5-year agreement in 1955, the Auto Workers' Union signed 3-year agreements with the principal car manufacturers and suppliers. In 1957 the United Steelworkers negotiated a 3-year contract with the large steel producers and with many smaller steel fabricators and related plants—after a strike was precipitated partially over the industry's demand for a 5-year contract. These agreements provided for annual increases of from 6 to 12 cents per hour plus cost-of-living adjustments.

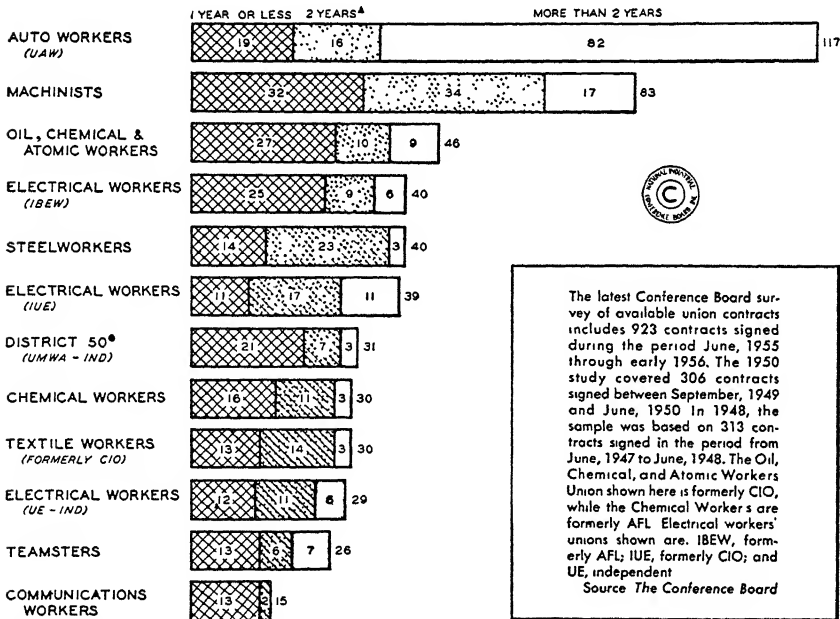
⁶ This walkout was not illegal since strikes over new production standards are possible under the standard agreements in the automobile industry.

The prospect of avoiding the uncertainty and disturbances of annual negotiations continued to attract management, employees, and union leadership toward the long-term agreement. By 1957, contracts effective for periods of more than 1 year and providing for deferred or installment wage increases covered about 5 million workers, or more than twice as many workers as in 1951, the period of previous peak coverage of such arrangements.⁷ Figure 7 illustrates the growth of longer-term contracts.

FIGURE 7
DURATION OF UNION CONTRACTS, UNITED STATES, 1948, 1950, 1956



BY SELECTED UNIONS, 1956
(ALL AFL-CIO EXCEPT WHERE NOTED)



The latest Conference Board survey of available union contracts includes 923 contracts signed during the period June, 1955 through early 1956. The 1950 study covered 306 contracts signed between September, 1949 and June, 1950. In 1948, the sample was based on 313 contracts signed in the period from June, 1947 to June, 1948. The Oil, Chemical, and Atomic Workers Union shown here is formerly CIO, while the Chemical Workers are formerly AFL. Electrical workers' unions shown are: IBEW, formerly AFL; IUE, formerly CIO; and UE, independent.

Source: The Conference Board

* INCLUDES CONTRACTS OF MORE THAN ONE YEAR, AND UP TO AND INCLUDING TWO YEARS
* COMPRISES ALL WORKERS WITHOUT PREJUDICE AS TO CLASSIFICATION OF EMPLOYMENT

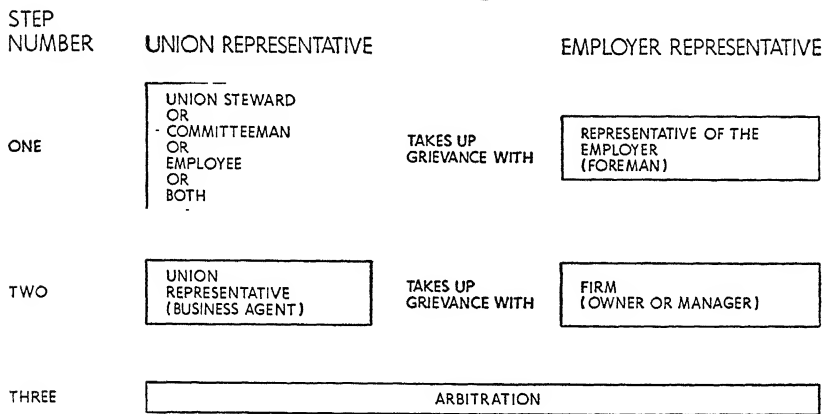
Bargaining during the Life of the Agreement—Grievance Disputes

Even when an agreement having a term of one year or less exists, collective bargaining does not end when the agreement is signed. It simply takes a different form. Union officials are just as alert to the possibility of obtaining additional benefits for their membership after a contract is signed as before. If, for example, the union can induce management to make an exception on vacation policy for one worker, that exception can be made the basis of a demand for liberalization of vacations in the next contract negotiations, either with this company or with other companies with which the union deals. The contract is, in a real sense, only a temporary resting place for the parties.

In most instances, bargaining during the life of the contract is different than bargaining over a new contract. That is true because the bargaining after the contract has been signed is basically over the interpretation and administration of the agreement, whereas before the agreement is signed it is the language of the agreement which is in dispute. Thus some observers liken the negotiation of the agreement to the legislative function of writing laws, and the interpretation and administration bargaining which goes on after the agreement is signed to the judicial function of interpreting laws which the legislature has enacted.

The attitude of union and management officials toward these different types of bargaining is in many ways opposite. For example, we have already noted that a recent study of the U.S. Bureau of Labor Statistics found that 89 per cent of the agreements which it examined provided for the arbitration of unsettled grievance disputes—that is, disputes over the interpretation and administration of agreements. This same study, however, found that only 2 per cent of the agreements provided for the arbitration of disputes over new or reopened agreements. In other words, unions and managements are willing to allow a third party to settle a dispute over an interpretation of an agreement when they cannot agree on the interpretation; but when it comes to the actual writing of the agreement, they want no outsider to do it for them. This is sensible, because no one is as qualified to write a contract as the parties who have to live with it. On the other hand, if the company is going to get out production, and if the workers are to receive steady pay, then the parties have to agree on a practical method which insures that production will not be interrupted by disputes over contract interpretation and administration. Then if either party is too dissatisfied with the results of the decision of the outside arbitrator who interprets the disputed clause in the agreement,

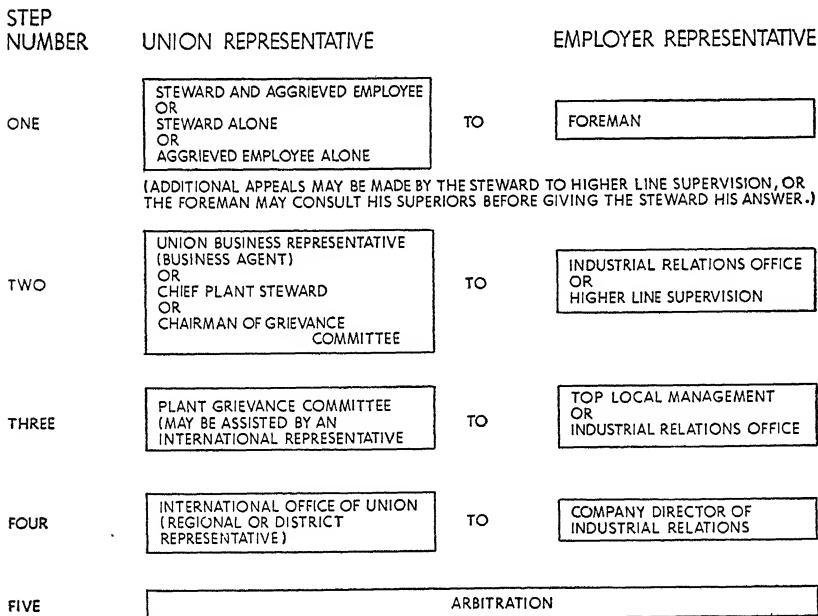
FIGURE 8
TYPICAL GRIEVANCE PROCEDURE FOR SMALL FACTORIES



that party can attempt to have the contract altered at the next negotiation.

Figures 8 and 9 show typical grievance machinery from the time a grievance is raised until it is settled by arbitration. Lest the reader mis-

FIGURE 9
GENERAL PATTERN OF GRIEVANCE MACHINERY IN LARGE PLANTS



understand, it should be stressed that the typical grievance is settled down at the first step. This is particularly the case after the union-management relationship has matured. Once the shop foremen and the union stewards or committeemen both get used to each other and to living under a contract, they are likely to work out a *modus operandi*. For every grievance which goes to arbitration, hundreds, if not thousands, are settled by the parties themselves in the shops.

The disputes which do go to arbitration, however, are likely to be important ones, or ones in which both parties feel they have too important a stake to compromise. That is why the provisions of the contract which concern the arbitration machinery are so important.

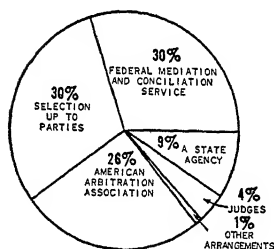
Figures 10, 11, and 12 show the characteristics of agreements to arbitrate grievances, based upon a study of the Bureau of Labor Statistics covering 1,290 contracts in the files of the Bureau.

Typical Grievance Cases

So far all this may be a bit abstract to a person not familiar with collective bargaining issues. Let us, therefore, look at a few typical cases.

FIGURE 10

THE APPOINTMENT OF THE ARBITRATOR



Even though the agreement calls for arbitration of unresolved grievances, settlement may be foreclosed if the parties cannot agree upon an arbitrator. In order to avoid such an impasse, 70 per cent of the agreements in the Bureau of Labor Statistics sample provide for an outside agency to select an arbitrator if the parties themselves or their representatives cannot agree on a selection. The majority of agreements which do not give an outside agency the final authority to select the impartial arbitrator provide for a permanent arbitrator. Hence the possibility of recurring deadlocks over selection in such cases is not serious.

In those instances in which the parties agree in advance upon an agency to select an arbitrator if they cannot agree upon a selection, a private, nonprofit organization, the American Arbitration Association (AAA), and a government agency, the Federal Mediation and Conciliation Service (FMCS), are the most widely used. State agencies which perform this function include the New York State Board of Mediation, the Connecticut State Board of Mediation and Arbitration, the Minnesota State Labor Conciliator, the Wisconsin Employment Relations Board, and the New Jersey State Board of Mediation.

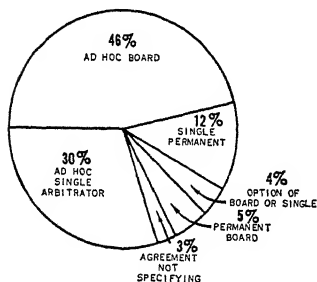


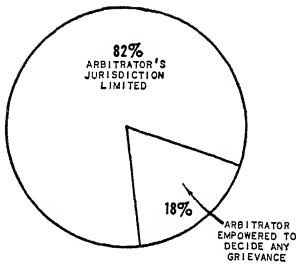
FIGURE 11

THE COMPOSITION OF THE ARBITRATION MACHINERY

The permanent arbitrator or permanent board of arbitration are favored by 17 per cent of the contracts examined, but the majority prefer a new arbitrator or arbitration board for each grievance dispute that goes to arbitration. The difference between the two types of arrangements is sometimes narrowed because of the tendency to reappoint time and again an arbitrator well liked by both parties.

FIGURE 12

THE JURISDICTION OF THE ARBITRATOR



The jurisdiction of the arbitrator is usually limited. Some contracts state that the arbitrator can neither add nor set aside any provision of the contract. Other contracts limit the jurisdiction of the arbitrator to specific matters concerned with interpretation, application, or alleged violation of the contract. But a minority of the contracts permits the arbitrator to rule upon "any grievances" or "any disputes" which are brought up as a grievance.

The year 1953 was peculiar in that two important holidays—July 4 and May 30 (Memorial Day)—came on Saturdays. What happened if the contract called for provisions for special pay or for leave with pay on these days and Saturday was not a workday? The answer is it all depends upon what the contract said. For if a dispute over contract interpretation goes to an arbitrator, his job is to decide the dispute in the light of what the contract actually says and means.

This dispute arose at the Hanson & Whitney Company of Connecticut, which deals with the Electrical Radio and Machine Workers. Here the decision went with the company's contention that it was not obligated to pay for these holidays not worked because the contract stated (1) that the regular workweek was Monday to Friday inclusive; and (2) that the company would pay for time lost in observance of holidays which were observed during the regular workweek. Obviously, in the light of this language, the union's claim for pay for a Saturday holiday not worked could not stand up.

The same issue arose before the same arbitration board in the case of the New Britain (Connecticut) Gas Company and District 50, United Mine Workers, but here the language of the contract was quite different. This contract provided that holidays shall be paid whether falling within the workweek or not; and furthermore that holiday hours shall accumulate and be counted in determining hours worked for the purpose of computing overtime pay. Since the holiday came on Saturday after the employees had worked 40 hours during the week, the arbitrator decided that the language of the contract required not only pay for the Saturday holiday but pay at the overtime rate of time and one half.

Seniority is another area in which disputes are frequently hotly contested. This is especially the case when the issue involves the promotion of a junior man over a senior one under a contract clause which says that both seniority and ability will be factors in promotion.⁸ For example, in

⁸ Seniority is discussed Chapter 6. The terms "senior" and "junior" are used to denote length of service with a company, not age or experience.

a case involving the Hercules Powder Company and the Chemical Workers' Union, the action of the company in promoting an employee with less than top seniority was sustained because the contract read that seniority would prevail "*only if* factors of ability, aptitude and training are relatively equal." The words "only if" made it clear that seniority was a secondary, not a primary, criterion for promotion. On the other hand, the action of the Southern Bell Telephone Company in promoting a junior employee was overturned by the arbitrator in a dispute with the Communication Workers because the pertinent contract clause read that "seniority shall govern if other necessary qualifications of the individuals are substantially equal"; but the company wrongly interpreted the clause to permit it to promote the best qualified who was not "substantially" superior to the most senior employee in line for promotion.

Among the most difficult cases are those involving discipline. Often the issues are not sufficiently clear, and the evidence is blurred. For example, an employee may have deserved to be discharged by his conduct; but if the employer does not follow the procedure outlined in the contract, the arbitrator may have to reinstate the employee because contract procedure must be followed if an action is to be sustained in arbitration. In other cases, union officials will carry discharge cases to arbitration because the rank and file demands that officials fight for the membership, right or wrong. Even if the arbitrator sustains the discharges, the union official can take credit for putting up a good fight.

These cases illustrate not only how grievance disputes are settled but also why contract interpretation is so important to both labor and management during the life of the agreement. By settling disputes over interpretation and administration, and by working out disagreements, labor and management use the grievance machinery to turn a dry-reading contract into a way of working together.

Grievances are important to the union leadership in other ways. They afford an opportunity to gain the workers' loyalty and support by effectively arguing workers' causes with management in the many disputes which are processed through the grievance machinery. Furthermore, operation of the grievance machinery provides opportunities for thousands of workers to serve as union stewards and committeemen and thus to gain familiarity with the process of collective bargaining. Several hundred thousand union members now serve in these minor positions. By participating in the grievance machinery, these men are training themselves for future union leadership and at the same time doing something which raises them above the monotony of tending a machine.

Management's representatives in the shop, the foremen, usually find

that dealing with a union makes their job much more difficult. Once the union is in, the foremen's commands are subject to union challenge. But the foreman who learns to deal effectively with the union is training himself for a bigger job—for this foreman has learned to deal with people in a situation where not command but persuasion is the means of getting things done.

Bargaining during the Life of the Agreement—New Issues

The traditional and common-sense view of labor contracts has been that once the contract is signed, no new issues may be brought up and discussed until the contract is up for renegotiation. But let us suppose that during negotiations, the issue of pensions was not referred to. Then before the agreement ran out, the union demanded that the company discuss the inclusion of pensions in the contract. The National Labor Relations Board has ruled that where a matter has not been discussed in bargaining, it may be brought up and the employer must bargain about it even during the life of the agreement. To be sure, the employer is not required to agree; but he must bargain.

This ruling has been greeted with dismay by most employers who now frequently demand that unions waive the right to bring up new matters when the agreement is signed. It is difficult to blame employers who wish to protect themselves against this NLRB ruling. For when the contract is negotiated, costs of labor are expected to be based upon the terms and conditions set forth in the agreement. If new and often costly issues can be brought up at any time, and pressure brought to bear to put them into the agreement, stability of costs or of any other aspect of labor relations cannot possibly be attained.

THE SCOPE OF BARGAINING

In a resolution adopted at its thirteenth constitutional convention in November, 1951, the CIO demanded equal union sharing of such traditional management functions as determination of prices, production levels, rate and nature of capital investment, size and location of industrial plants, and the development and conservation of natural resources. Although the unions formerly affiliated with the CIO have done nothing substantial to implement this policy, the reactions of a substantial part of American management to this statement were probably unprintable, for this resolution had impinged upon one of the most sensitive areas in collective bargaining relations. This is the question of just what spheres of activity are solely for management determination.

Union policy with respect to wages has always been phrased in terms of "more, always more." Management fears that unions intend to apply this same policy to the scope of collective bargaining. Attempts to set a limit to union encroachment upon managerial prerogatives has been the source of frequent clashes between management and union groups both on local and national levels. One of several disagreements which marred President Truman's ill-fated labor-management conference in 1945 involved the question of managerial prerogatives. Employer representatives demanded that labor agree to a "listing of specific management functions." Union representatives refused "to build a fence around the rights and responsibilities of management on the one hand and union's on the other."⁹ Except for the issue of union security (discussed in Chapter 6), to which it is closely related, probably nothing in industrial relations produces so much emotional conflict, so much heat, and so little light as the debate over the proper scope of managerial prerogatives.

The Meaning of Managerial Prerogatives

Managerial prerogatives may mean different things to different people. For the most part, however, the term is used by the group in society who may be termed the "professional managerial class." These are the managers of large corporations as distinguished from the stockholders who are the owners. These people, who include in their ranks the whole array of business executives and administrators from president down to foreman, are a group set apart from both labor and owners. In a very real sense the conflict over managerial prerogatives and functions is part of the struggle of this group for status and recognition—a struggle which is as important to this group as is the struggle by union leaders for recognition and public respect. Some take the view that the function of the union is primarily one of limiting the power of the managerial class to determine the distribution of the total product of industry and the share of individuals and groups in it.¹⁰

Despite attempts of management to define its functions, one encounters no clear pattern of practice. In Chapters 6 and 11 we shall find unions have been able to recognize, control, or show an interest in, a wide variety of actual managerial problems which relate to both the wage and nonwage aspects of collective agreement. Thus, unions assist in advertis-

⁹ U.S. Department of Labor, Division of Labor Standards, *Bulletin No. 77, The President's National Labor-Management Conference: Summary and Committee Reports* (1946), pp. 56, 57, 61.

¹⁰ Peter S. Drucker, "The Employee Society," *American Journal of Sociology*, Vol. LVIII, No. 4 (January, 1953), p. 362.

ing and distribution; influence and affect price policies directly or indirectly; control or limit entrance to the trade; act as employment agencies or otherwise control hiring; affect the rate of technological advancement and, therefore, management organization of the factors of production; and in other ways participate in what management traditionally has considered its proper functions. Obviously, a definition of managerial functions which would have any real meaning would be very difficult.

In large corporations where the managerial class is most prominent as a distinct entity, the issue of managerial prerogatives is most intense. For the most part, these companies were unionized not earlier than 1937. The issue of managerial prerogatives is, therefore, part of the problem of management and labor learning to live with one another. That the issue should be a live one fraught with emotion is not surprising. For in a very real sense, the union is a management-regulating device. The entrance of the union involves, under any circumstances, a checkrein on the freedom of management to act as it pleases. It is not difficult, therefore, to understand the feeling behind such statements as "Protection of management rights is not a matter of defending technical legal rights alone: it is simply and fundamentally a matter of protecting the freedom and authority that management must have if it is to discharge its responsibility of managing the business."¹¹

If, however, one can understand or even sympathize with the emotional content of this viewpoint, one must also note that it is, in unqualified form, incompatible with collective bargaining. For the "freedom and authority" which management wants to manage its business inevitably means, at one point or another, freedom and authority to act in matters in which the union cannot permit the employer to act if it is to remain in existence. Moreover, from a public policy point of view, it is difficult to understand why such freedom and authority should be restricted to a particular group of persons who may be defined as industrial managers.

Instead of attempting to define managerial prerogatives, it might be better to realize that collective bargaining is a form of management in which workers through unions do actually participate in management. This is true despite the fact that most unions disclaim any desire to participate in management as vehemently as management denies the right of labor to participate in management. Looked at, however, in the light of the vast participation of unions through collective bargaining machinery in activities which directly or indirectly affect all phases of company management, there is already labor participation in management. The extent

¹¹ Lee H. Hill and Charles R. Hook, Jr., *Management at the Bargaining Table* (New York: McGraw-Hill Book Co., Inc., 1945), p. 58.

to which this participation is likely to expand or to which it is socially desirable remains to be seen. Nevertheless, it is difficult to disagree with the statement that "the roles of management and union in the large corporation cannot be defined by a differentiation of spheres of mutual or exclusive interest in the operation of the business."¹²

Solution of the problem of the extent of union participation and influence in management is one of the great problems of our time. Any attempt to delineate the respective functions of management and unions would not only fail to succeed but also it would indicate a misunderstanding of the fact that the entire issue of managerial prerogatives is merely a surface manifestation of the central issue, namely, the role of unions in our society. One may therefore agree with the view (often expressed in anger or sorrow by businessmen) that there are in fact no limits to union interests in management. Union penetration of former managerial prerogatives is likely to be greatest in the areas most closely associated with industrial relations. Personnel management is thus today much less a sole management function than is business finance. Since, however, industrial relations affect all aspects of a business, union interest in corporate financial methods should not be surprising. Nor is such interest new. The railroad unions, for example, have criticized financial methods of railroads, charging that they carried an oversized bonded indebtedness which tends to siphon off earnings and thus to permit the railroads to plead inability to pay wage increases. Many other examples could be cited (as they will be in Chapters 6 and 11) involving production, sales, engineering, and other management functions in which unions have taken an effective interest.

But although unions have taken an *interest* in management functions beyond the personnel field, that interest has not altered management *decisions*, at least in the mass-production industries. Thus the decisive considerations in the automobile or steel industries both before and after the spread of unionism are economic and center in the advantages which accrue to the largest producers by virtue of their ability to spread their costs. The unions have effected changes, and altered ways of thinking, but the basic decisions outside of the personnel field are made by management and controlled by the economics of these industries.

SETTING UNION POLICY FOR COLLECTIVE BARGAINING

Who sets union policy in collective bargaining and how? There is, of course, wide variation among unions, but several clear trends have de-

¹² Neil Chamberlain, *The Union Challenge to Management Control* (New York: Harper & Bros., 1947), p. 51.

veloped over the years. One is the shift of control from local unions to national unions. This is in line with the trend toward centralization of national union power which we noted in Chapter 3.

The Shift to National Control

The trend toward national union control of collective bargaining is not new; it was noticeable at the turn of the century. In recent years, however, it has gained momentum for several reasons.

In the first place, national unions have been forced to take over authority from locals in order to insure that uniform wage and working conditions and policies pertaining thereto will be followed where the national union believes such uniformity essential. This is especially important when union members travel as in the case of musicians, actors, or building workers. Although these unions negotiate on a local basis, their negotiations are often either guided by the national unions or are controlled by the national union to insure uniformity within limits and to prevent jockeying to secure superior settlements.

Even where the tradition of local control is strong, national unions sometimes regulate the limits of local union bargaining. Local agreements in the Typographical Union must be submitted to national headquarters for approval. The United Automobile Workers has created national union-dominated departments which do the primary bargaining with such multiplant concerns as General Motors, Ford, and Chrysler.

When collective bargaining goes from the local to the national stage, the power of the local union wanes. Centralization of authority within the United Mine Workers has obviously been furthered by the development of national collective bargaining. On the other hand, regional systems of collective bargaining, such as exist in the Pacific Coast pulp and paper industry, have the effect of creating semiautonomous departments within national unions. Especially if the region is large, it becomes self-sufficient and needs little national assistance in bargaining. Its officers and members are then not likely to submit meekly to close national union supervision. Moreover, even when bargaining is nationwide, purely local conditions are left for local bargaining. The coal mines are a case in point.

Too tight national union control of local bargaining has often brought strong local reactions. Agreements made by national union leaders have on a number of occasions been repudiated by local union memberships who felt either that their interests were insufficiently considered or that they were not sufficiently consulted beforehand.

Within a single organization, there may be conflict between "high-

wage" and "low-wage" locals over the extent of national control. The former, fearful that they will lose business to the latter, are likely to plump for strong national control in the interests of uniformity. Because of the marginal character of many employers with whom the low-wage locals deal, they are likely to oppose these policies. The fight between these two groups is a feature of many Typographical Union conventions.

The Formulation of Demands

Although negotiations may be controlled to a considerable extent by the national officers, it is typically the local members who formulate demands. To be sure, the formulation of demands is tremendously influenced by the national leaders. To cite a few classic examples: Many miners who were on strike in 1946 for a "welfare fund" were at best only vaguely familiar with the meaning of the term; and although Walter Reuther's demand for a "guaranteed annual wage" in 1955 had the majority support of the auto workers, few could discuss the meaning of the demand in concrete terms.

Nevertheless, the fact that members formulate demands is extremely important, despite the influence of leaders, and also despite the fact that all too few unionists are active in their organizations. For one thing, member formulation acts as a sounding board of worker wants. Even the most dictatorial union leader cannot ignore such obvious rank and file wishes. Then too the reaction of union members to settlements is often a function of the relation of results to requests. If the former vary too significantly from the latter, labor leadership must be ready with explanations. Otherwise, intraunion rivals have grist for their political mills.

Customarily, demands are formulated at local meetings, in some cases on the basis of leadership proposals, in others after presentation by a special committee, and in others after direct suggestions from the floor. When more than one local is involved, union rules often call for joint committees of the locals to unify demands. Regional bargaining requires machinery similar to that of the Pacific Coast paper unions where organizers of the two collaborating unions draw up proposals which form the basis for discussion in the local unions. The locals submit their amendments to a general meeting held just prior to bargaining conferences. Demands of unions engaged in national bargaining are usually formulated at national conventions (miners, pottery workers) or at special national conferences (railway employees).

One of the effects of rank-and-file formulation of demands is likely to be that the demands are excessive both in number and amount. Everyone has his favorite recipe. This in turn leads on occasions either to dis-

gruntlement with results or to strikes because extraordinary demands are not met. It is one of the costs of democracy.

Negotiating Personnel and Its Powers

The negotiating committee in most unions is appointed with an eye to representation of the various groups within the organization. The various crafts, geographical areas, races, or nationalities are likely to be represented on any negotiating committee. It is quite common for union constitutions to require that negotiating committees provide for adequate geographical or trade representation. Only a few unions such as the International Hod Carriers', Building and Common Laborers' Union grant almost blanket power to union officials to act automatically as the negotiating committee.

In actual practice, negotiations are frequently carried on by a subcommittee of the negotiating committee. This is often a practical necessity since negotiating committees are frequently too large and negotiations become unwieldy when all members participate. Some union constitutions provide for the election of a subcommittee. Others do so in practice. In still others, the union president becomes the subcommittee. In the case of the United Mine Workers, which has a wage policy committee of more than 100 members, John L. Lewis is the actual negotiator. The late President Philip Murray of the United Steelworkers was also the *de facto* negotiating subcommittee in the Steelworkers negotiations with the United States Steel Corporation.

The power of negotiating committees or subcommittees varies considerably. At the local level the committee is rarely given full authority to settle without rank-and-file approval of the terms. However it is quite usual for the rank and file to give a negotiating committee power of settlement after negotiations have proceeded for some time or have reached an impasse where a prompt decision is essential.

In general it is probable that most local leaders would not want complete power of settlement. The reason is that if they make an agreement without specific rank-and-file approval, they will be held strictly accountable for the results, and the net effect of the accounting may well be defeat for re-election.

On the other hand, most national leaders would prefer the power to settle. They feel that they are capable of securing the best settlement possible, and that the rank and file, which is often without knowledge of the peculiar problems involved in negotiations, will demand more than can possibly be obtained and thus force the union into costly strikes which it has no hope of winning.

The case for granting union officials the power of settlement is formidable. Nevertheless, the requirement that all terms be referred to the rank and file is a powerful check on union leadership which is probably best retained. Moreover, even in cases where union leadership possesses the right to settle, rank-and-file revolt may effectively curtail that right. For example, in 1945 and 1947 Joseph Ryan, then International Longshoremen's Association President-for-life, was forced to renegotiate contracts with the New York Ship Owners after membership revolts tied up the Port of New York with wildcat strikes in protest against Ryan's deals with the shipowners.

Another reason why granting full power of settlement to the leadership is undesirable sociologically, even if economically the leadership would reach the soundest bargain, is that there is a great deal of educational value in worker participation in collective bargaining. With the exception of times when there are political contests within the union, negotiations for new contracts cause the greatest turnout to meetings and the greatest general workers' interest. Service on negotiating committees, participation in discussion over terms of settlement, and the interest which these activities arouse build union leadership for the future and assure an element of democracy in unions.

National collective bargaining, however, does not appear to afford the opportunity for full discussion for settlement on the local level unless it is possible to have the contract discussed and voted upon at local meetings all over the country. With hundreds of locals involved, as in the case of the United Mine Workers, this is impractical. Moreover the referendum is no substitute since it does not permit argument and discussion which is the essence of the educational process. A truly representative national bargaining committee with an effective voice in negotiations appears to be the most practical body to approve or reject contracts where national or regional collective bargaining exists.

In a few industries where workers are organized by a number of craft unions, co-operative bargaining has developed so that the locus of control of collective bargaining on the union side has been transferred from a single national union to a group of unions. Such a situation occurs in the printing and building trades in many areas, in shipyards organized by the AFL Metal Trades Department, on the railroads, and in the West Coast pulp and paper industry. In these instances the usual procedure is for the unions to appoint a joint committee or act through a joint organization which they have set up in order to present a united front to management.

Joint union action of this type has been hindered to a considerable

extent by the fear, on the one hand, that strong unions will have their bargaining power reduced by joining with weaker ones; and on the other hand, by the fear on the part of some labor leaders that the net effect of co-operative action will injure their political standing within the union or within the labor movement. Thus, the Bricklayers, Masons and Plasterers International Union of America, which was organized in 1865, did not join the AFL until 1916, because as the most successful building-trades union at that time, it had no desire to be forced to observe picket lines or to engage in sympathetic strikes in behalf of its weaker fellow organizations. In other cases, unions have declined to co-operate because they prefer to nibble away at the employer. Some craft unions feel that they can gain more because a concession to one will cost the employer considerably less than a concession to all crafts. Usually, however, a follow-the-leader policy develops so that under the nibbling process the employer pays more in the long run.

The railroad unions afford the classic example of union policies which hinder co-operative effort. More than twenty-one unions have split in recent years into three or four camps. All make separate demands upon employers, apparently in the hope (thus far unsuccessful) that one group can gain more than the others. The net effect has been one nation-wide railroad strike, the narrow avoidance of several regional ones, and a general deterioration of bargaining relationships.

SETTING MANAGEMENT POLICY FOR COLLECTIVE BARGAINING

From the point of view of the employer, bargaining with the union may be on an individual plant basis, on a company-wide basis, or the employer may be one of a number of employers who bargain together in an employers' association. If bargaining is between a local union and a single plant of a large corporation, negotiations may be conducted by the local personnel director and/or the plant manager subject to instructions from company headquarters. On the other hand, if all of a number of plants of a company are involved, the industrial relations director of the company is likely to conduct negotiations. In regional or industry-wide bargaining, employers are usually represented by committees or officers designated by the employers' association. On all levels of collective bargaining negotiations, employer representatives may include the company attorney or consultant, whose function may be actively to participate in negotiations, to give advice behind the scenes, or in some cases merely to reduce to contract form the bargain reached by the parties.

As in the case of unions, there is considerable diversity in the amount of authority given the management representatives at the bargaining table. In some cases they may be able to make final decisions on all aspects of the contract; in other situations, they may be able to agree only to minor changes and concessions, and they must obtain the approval of the president before committing the company to anything substantial. Large outlays such as those involved in the establishment of a pension system sometimes require approval of the board of directors as well as of the president.

Within the management organization, some of the same type of pulling and hauling for the power of decision making occurs as goes on within the union. In some cases, the financial officers exercises powerful influence whenever a money matter is involved. Allegedly, it was the financial vice-president of United States Steel Corporation who persuaded the corporation management to refuse to grant the steelworkers' pension demands in 1949. The result was a strike and the eventual capitulation of the company. In other companies, the dominant voice is that of the top production man; in still others, the top sales executive exercises the most influence.

Whenever a basic decision has to be made, for example, whether to take a strike or to accede to a union demand, a decision must be made on the basis of the current position of the company and the prospects and choices involved. Obviously, the final decision in such matters must be made by the top executive of the company. In such instances, the current sales and the financial and production situations must be evaluated. The decision cannot be made on the basis of industrial relations alone. It may, for example, be poor industrial relations to accede to an outrageous union demand. It was, for example, poor industrial relations and certainly set what could be a costly example for General Motors to accede in 1953 to the UAW's demand to reopen their 5-year agreement. For that reason the industrial relations executives of General Motors opposed any concession.

On the other hand, the financial executives saw labor trouble as an interference with record profits and the production personnel wanted no interruption of their schedules. The industrial relations executives were overruled, and a deal was made to insure continued production and profits.

Actually, business decisions of this character are made largely on the basis of short-run conditions, often in spite of the fact that the costs of agreement *may* in the long run be greater than a strike now.

We say "may" advisedly. No businessman can be sure of what will

be the long-term effects of any union agreement or wage increase. But, a strike involves losses today.

Of course, not all business decisions, any more than all union decisions, are based upon economic calculation. Instances of businessmen forcing a strike to win leadership over rivals in their own firm are not unknown.¹⁸ Likewise, industrial relations decisions based upon emotional rather than economic fact occur every day in managerial ranks. Businessmen, like union leaders, are people, and anything but infallible.

QUESTIONS FOR DISCUSSION

1. Suppose you are a union business agent. How would you go about organizing a plant? If you were the top-management executive, what would you do about this organizing campaign?
2. Do you think that labor and management should both be prohibited from asking for a change in the collective agreement during its term? State your arguments fully.
3. To what extent, if any, should collective bargaining be limited so as to prevent unions from discussing matters not directly related to wages, hours, and working conditions?

SUGGESTIONS FOR FURTHER READING

CHAMBERLAIN, NEIL W. *The Union Challenge to Management Control*. New York: Harper & Bros., 1948.

The question of union "invasion" of management prerogatives carefully discussed.

SELEKMAN, B. M. *Labor Relations and Human Relations*. New York: McGraw-Hill Book Co., Inc., 1947.

A discussion of the human problems in the collective bargaining relationship.

WHYTE, WILLIAM H. *The Organization Man*. New York: Simon & Schuster, Inc., 1956.

A sociological analysis of the modern managerial class.

¹⁸ For a fascinating study of politics among plant executives, see Cameron Hawley's novel, *Executive Suite* (Boston: Houghton Mifflin Co., 1952), and for an equally good one about a bank, John P. Marquand, *Point of No Return* (Boston: Little, Brown & Co., 1949).

Chapter 5

THE CONTENT OF COLLECTIVE BARGAINING: WAGES

The major objective of collective bargaining is to obtain better wages for employees. Grievances develop about other aspects of labor relations, but ordinarily it is the basis and rate of payment for work that causes the most heat to be generated in collective bargaining negotiations. It will therefore provide a better insight into the collective bargaining process if we consider just what is encompassed by the term "wage." There is a natural inclination to use this term as if it were a rather simple component and as if the only variable which had to be determined in setting the wage was its amount. Actually, however, the wage is a highly flexible form of compensation and may vary considerably both as to form and content. For example, it may be based on payment by the piece, payment by the hour, or participation in a complex profit-sharing plan. It may or may not include group insurance, pensions, and similar fringe benefits. There is often as much friction generated in collective bargaining with respect to the form of wage payment as with regard to wage levels. In some recent wage negotiations, unions decided that their minimum demand involved "the equivalent of" so many cents per hour increase in wages. The protracted bargaining which then followed was concerned with the manner in which additional pay might be divided between higher hourly rates and added fringe benefits. In the following pages, we shall review some of the major forms of wage payments and consider the attitudes of labor and management toward them.

Payment by Time

A majority of American workers are paid by the hour, day, week, or month—i.e., by time. Practically all of the building trades, most of the service trades, a large majority of public utility and transportation industries, and about one half of manufacturing industries pay their employees according to time worked.¹ The major criticism advanced by employers

¹ S. T. Williamson and Herbert Harris, *Trends in Collective Bargaining* (New York: Twentieth Century Fund, Inc., 1945), p. 71.

against time payment is that output and earnings are not directly related—there is no “incentive” on the part of the worker to produce. Unions frequently prefer time pay because it compensates workers on a uniform basis and prevents the speedier workers from making it hard for the slower members of the union. As we shall see in the following discussion, however, union and management attitudes toward the form of wage payment are more the reflection of physical and technological conditions in the industry than of a basic preference for one type of payment rather than another. In the automobile industry, as a result of organization by the United Automobile Workers, there was a wide-scale substitution of time pay for the incentive pay which had previously prevailed and which union leaders had complained involved a speedup injurious to workers’ health. Aside from this instance, however, there is little evidence that the growth of union organization is responsible for the widespread use of time pay today. It seems likely that even in the absence of union organization, most workers would be paid by time simply because this is the most practicable method of payment for most jobs in the modern business world. In many industries no other method of compensation is feasible because of the difficulty in computing individual or group output.

Payment by the Piece—Incentive Wages

Piecework and other forms of incentive payment relate compensation and output so that earnings fluctuate more or less in accordance with actual output, thus providing a direct financial stimulus to workers to increase their efforts and output. About one fourth of all wage and salary earners in the United States receive their basic wages through some form of incentive payment. Such payment is common in apparel, textiles, cigars, footwear, and some of the metalworking industries.² There is frequent variation, however, even among companies in the same industry. Thus, in the automobile industry Studebaker and Willys pay incentive wages to substantial proportions of their workers, while the other major companies pay hourly rates.³ Bonuses and commissions are also frequently paid in retail and wholesale trade as a stimulus to the efforts of individual salesmen.

In general, incentive systems work out best in industries where labor cost is a large percentage of total cost, where competition is keen, and where the output of the individual worker is easily discernible. Clothing and textiles are good examples of industries which meet these require-

² W. S. Woytinsky and Associates, *Employment and Wages in the United States* (New York: Twentieth Century Fund, Inc., 1953), pp. 420–21.

³ *Ibid.*, p. 421.

ments. In some industries, employers prefer piecework because it enables them to reward the speedier worker and to figure their labor costs more exactly. On the other hand, piecework may be undesirable from the point of view of the employer where control of quality is important and speed may result in excessive spoilage. Rapid technological progress may also make incentive pay undesirable from the point of view of the employer. Continual improvement in design of machines may cause earnings of particular employees on a piece-rate basis to rise very rapidly and get out of line with other rates in the plant; yet attempts to reduce piece rates as technology improves is certain to cause friction both with the union and employees. In general, incentive compensation is not practical where emphasis is on quality, not quantity, where individual output or performance cannot be measured with precision, and where mechanical contrivances control the speed of employees' work. Automobile assembly, chemical manufacture, and machine tool design are examples of industries in which these conditions apply.

The following are some of the principal types of incentive plans and their principal advantages and disadvantages:

1. *Piecework.* This involves individual payment by the piece, pound, part, etc. It is applicable only to relatively simple operations and provides no extra bonus for above-average production beyond the production rate. It is simple from the standpoint of calculation of earnings, involves only minimum bookkeeping costs, and has a direct relation to output which employees can readily perceive and understand.

2. *Group Incentives.* This involves bonus payments made on the basis of group output. It is applicable only to closely related operations, especially successive operations where individual performances are closely linked. It tends to build cliques among groups which may disrupt morale in a plant. It has, however, worked satisfactorily in the radio tube industry which seems to fit all the requirements for its successful application.

3. *Plant-Wide Incentives.* This involves a bonus plan which covers all employees. An example was the wartime plan of the Grumman Aircraft Company of New York. This plan used, as a base factor, pounds produced during the second quarter of 1943 divided by total hours worked. A bonus of 1 per cent was paid for a 2 per cent increase in production with full participation for all with annual earnings under \$5,000; participation on a graduated basis for those earning \$5,000–7,500; and no participation for those earning in excess of \$7,500. Such a plan keeps all workers interested in production, but the individual output relation to bonus earnings is not easily made explicit. Moreover, in most plants,

individual effort of many workers, e.g., maintenance men, has no relation to output. They can loaf and reap the bonus.

4. *Measured Daywork.* This involves essentially an evaluated rate range with advancement from minimum to maximum based on merit rating factors, such as quality of work, quantity of work, versatility, dependability, etc. This type of plan requires frequent adjustment and bookkeeping to keep it up to date and in line with changing conditions of production. The many intangibles inherent in a rating procedure can be the source of frequent and acrimonious disputes which may more than offset any gains in production attributable to the incentive aspects of the plan.

5. *Standard-Hour Plans.* These are the most common incentive systems. Some are comparable to piecework with a guaranteed base pay. Others are stated in terms of earned hours instead of pieces produced. For example, a piecework rate of 10 cents per piece multiplied by a 5-piece per hour standard equals 50 cents. One standard hour of work is thus 50 cents if 5 pieces are produced. Such plans as Bedaux, Emerson, Wennerlund, Halsey, and Gantt fall in this category, although they differ in details. Standard-hour plans have the advantage of providing incentives with guaranteed base earnings. Their identification in workers' minds with "speedup" tactics and their complex figuring systems which confuse employees and increase bookkeeping costs are their main disadvantages.

Union Policies and Incentive-Wage Methods

Popular writers have frequently pictured all unions as bitterly opposed to piecework and incentive plans. Despite considerable union opposition to incentives, this is far from correct. Union policy toward incentives has always varied considerably from industry to industry. One study of 117 unions showed that piecework was willingly accepted by 33 unions of the 59 which operated in industries where piecework was frequently utilized; and of the 26 which opposed piecework, only 8 operated in industries where payment by the piece was the prevailing system of pay.⁴ In a more recent study of 51 unions, 33 were reported opposed to incentive wage systems, 12 favored them, and 6 voiced no opinion.⁵

With any given national union, there is usually wide variation in attitudes concerning incentive pay. Thus, the United Automobile Work-

⁴ D. A. McCabe, *The Standard Rate in American Trade Unions* (Baltimore: Johns Hopkins Press, 1912), pp. 187-99.

⁵ Woytinsky, *op. cit.*, p. 424.

ers is officially opposed to incentive plans, but many of its locals favor it. On the other hand, the United Electrical, Radio and Machine Workers has never taken a stand against incentives, but some of its locals have done so.⁶

Traditionally, unions have been more favorably disposed toward straight piecework than toward wage systems which provide for bonuses of one sort or another. This dates from the time when the incentive systems were utilized as a means of reducing wage rates. For example, it was not uncommon, under the guise of scientific management, to provide a negative bonus for increased production. Thus, if a worker was paid a base rate of 50 cents an hour for 10 pieces, he would receive 54 cents for 11 pieces, 58 cents for 12 pieces, 62 cents for 13 pieces, etc. Although the more he produced the more he received, the fact remained that the more he produced the less was his rate per piece. One result of such incentives is a rider that has been attached to Army, Navy, and Post Office appropriation bills since 1914, at the request of the AFL Metal Trades Department, which proscribes the use of time-study methods or incentive systems in establishments run by these departments.

In recent years, incentive systems have been made fairer. Thus, today a piece rate of 50 cents for 10 pieces might provide a payment of 56 cents for 11 pieces, 63 cents for 12 pieces, 70 cents for 13 pieces, etc. This would mean not only extra reward but also a higher rate per piece for increased production. However, even when the basis of compensation in an incentive system is fair, unions may still oppose it because it pits one union man against another and puts older workers at a disadvantage.

In general, for a union to favor incentive or piecework plans, two primary conditions must be met: first, the unit of output must be definable with precision; and, second, conditions of work must be maintainable with substantial uniformity over periods of time. There are some exceptions to these general rules. For example, the United Mine Workers has never opposed payment by the piece, which is quite general in the bituminous industry, despite the fact that conditions of work vary tremendously in the mines over short periods. The reason appears to be that from time to time the UMW has been faced with a considerable amount of non-union competition. The abandonment of piece rates would have raised the cost of union mines so that most business would have gone to non-union firms. Also, it is impossible to provide supervision for most mine employees so that piecework is the only method by which it is possible to keep track of individual worker performance in the mines.

⁶ See S. H. Slichter, *Union Policies and Industrial Management* (Washington, D.C.: Brookings Institution, 1941), chaps. x and xi.

Opposition to piecework and incentives is generally absent from industries in which this type of payment has had a long history. Steel is a good example. There is no evidence that the United Steelworkers has made any attempts to alter the basic systems of payment. The late Philip Murray, former president of the United Steelworkers, wrote that where morale is high and a good understanding exists between management and union employees, almost any wage system can be made to work.⁷

We have already noted that the United Mine Workers does not oppose piecework partially because of strong nonunion competition in bituminous coal. Nonunion competition has historically been an important circumstance conducive to union acceptance of incentives. Before the needle trades were so thoroughly organized, the threat of nonunion competition was one of the important reasons why the needle trades not only did not oppose incentives in piecework but also actually promoted them. In addition, the Amalgamated Clothing Workers, which has been as favorably disposed toward piecework as any union, has promoted its installation because only through piecework could the workers in the clothing industry increase earnings without increasing labor costs. If wages in clothing had been pushed up without an increase in production, the net effect would probably have been a decline in employment which would have taken away from the workers what they would have gained in wages.⁸

In industries characterized by multiunit collective bargaining on a regional and national basis, union policy toward incentive wage methods is likely to depend upon the adaptability of piecework to the regional and national agreements. In the various branches of the glass industry, in pottery, in stoves, and in hosiery, national and regional collective bargaining has long existed. In all these industries, payment is predominately by the piece which permits variation in earnings without variation in rates. Moreover local conditions are taken care of by special local agreements, so that piecework in these industries has proved compatible with bargaining on a wide scope.⁹

In sum, unions favor piecework where manual skill and labor costs are extremely important, where nonunion competition exists, where the unit of production can be defined with precision, where standards of work are fairly stable, and where piecework incentives have worked reasonably satisfactorily over a long period of time.

⁷ Philip Murray and Morris Cooke, *Organized Labor and Production* (New York: Harper & Bros., 1942), p. 112.

⁸ Slichter, *op. cit.*, pp. 290-91.

⁹ See R. A. Lester and E. A. Robie, *Wages under National and Regional Collective Bargaining* (Princeton: Industrial Relations Section, 1946).

Incentives and Collective Bargaining

An incentive program, if properly administered, can lay the foundation for a sound industrial relations program; but it can also make good industrial relations impossible. An example of the former situation is the system used by the Apex Electrical Manufacturing Company, Cleveland, and the International Association of Machinists, which became the bargaining representative for this company's 1,300 employees after a strike in 1944. Co-operation between management and labor brought higher than industry-average earnings and full production, cut labor turnover to a minimum, virtually eliminated absenteeism, and left the company untouched by postwar labor strife and unrest.¹⁰ An article praising this incentive system appeared in the IAM journal. Yet the IAM constitution states the opposition of that union to incentive pay for its membership!

On the other hand, incentives can contribute to unlimited industrial strife. So many factors, frequently intangible and unmeasurable, affect a worker's earnings that, unless mutual good will exists, continued bickering is often the result. For example, if a machine breaks down, or materials stop flowing, should the worker receive base pay or average hourly earnings of a previous period? One of the authors vividly recalls a War Labor Board case, for which he was arbitrator, in which there were twenty-seven issues, all involving this one question. Obviously, if good faith governed the relations between this union and company, the case would never have required adjudication by a third party.

Another problem under incentive wages involves the relation in the plant between the workers on the incentive procedure and the time workers. Few, if any, plants can place all employees on incentives. Indirect labor, maintenance workers, highly skilled employees, and those whose speed is entirely machine controlled, e.g., assembly-line operators, must usually remain on time work. As the pay of incentive workers rises, it creates inequalities in relation to time workers. During the war, the authors found instances in which highly skilled diemakers were endeavoring to obtain jobs as semiskilled machine operators because the latter, on incentive work, were paid more! Such inequities cannot be permitted to endure. Yet the only solution is to hold down incentive earnings of superior workers which, of course, negates the whole point of the incentive plan.

These are only a few of the grievances which arise out of piecework. Such grievances stem from two sources. On the one hand, there is the

¹⁰ *Business Week*, October 26, 1946, pp. 102-8.

uncertainty to which incentive wages give rise. "Intrinsically piece work rates introduce anxiety if not always competitive aggressions in contrast to the comparative security of time rates."¹¹ These uncertainties arise from the fact that earnings under piecework and incentive systems are affected not only by the worker's efforts but by a host of other factors (including those already noted) over which he has no control. Hence the pressure on the individual increases because the weekly wage is subject to considerable variation.

A second source of grievances under piecework arises from the fact that employers frequently substitute incentive systems for good management. Under time work, the employer is usually more interested than the worker in keeping machinery and other production mechanisms in first-class condition. Too frequently, however, employers count on the workers to take care of matters under piecework. Workers naturally are very much interested in machine efficiency when it is closely correlated with their earnings. The writers have seen many examples of employee ingenuity which have kept poor machines going under piecework systems in order to keep earnings up. The fact remains, however, that inefficient management invites grievances and labor unrest under piecework, if not demands for the elimination of the incentive plan itself.

Even when unions accept piecework, they make strenuous efforts to increase labor control over it. Thus the United Mine Workers require payment for "dead work" and compensation for other unfavorable conditions; the Textile Workers' Union fights management on the work load or stretchout issue without opposing incentives per se; and the United Steelworkers are vitally concerned with methods of computing tonnage rates without attacking the basic system itself. A strong union, by placing numerous restrictions on the incentive system, may actually reduce that system to time work. The leather workers' division of the International Fur and Leather Workers' Union by limiting output has practically converted piecework into time work.

The great majority of unions does not take a strong stand either for or against piecework. Many of them operate in industries where there is no problem of methods of payment. Others simply accept the status quo or attempt to secure minor modifications. As mechanical contrivances continue to reduce the importance of human effort, the issue in collective bargaining concerning methods of payment is likely to decline in importance.

¹¹ B. M. Selekmán, "Living with Collective Bargaining," *Harvard Business Review*, Vol. XX (1941), p. 30.

Profit-Sharing Plans

Incentive systems, whether they be piece-rate or group plans, are generally related to physical production. Profit-sharing plans attempt to go a step further and distribute to workers a share in the profits of the business after all ordinary costs, such as wages, materials, and overhead, have been met. Profits have no necessary or close relation to physical production or employee effort—and this is one of the inherent weaknesses in profit-sharing plans. Employees may exert extra effort, yet profits may decline because competitive conditions compel a reduction in prices; on the other hand, physical production may decline, yet profits may rise because the employer has made a favorable purchase of raw materials.

Despite the lack of close connection between employee effort and profits, many employers believe that profit sharing is the best means to obtain maximum co-operation between labor and management and to eliminate friction in labor relations. Profit-sharing plans of one kind or another have been in existence for about 150 years. Profit sharing usually takes the form of periodic cash distributions or of payments into a trust fund which is earmarked for employee benefits.

The timing of cash benefits is a problem. If the profit-sharing bonuses are paid frequently, they probably bear a closer relation in the employee's mind to the effort he devotes to his job; but on the other hand, he is also more likely to use the bonus as part of his regular income, with the result that it becomes part of his expected wage. As a consequence, any reduction in the profit-sharing bonus is likely to cause grumbling and may give rise to demands for compensatory increases in the basic rate. If the bonus is paid at six-month intervals or annually, the possibility may be lessened that the bonus will be looked upon as part of the regular wage; but on the other hand, with such a long period elapsing between the time an employee works on a product and the time when he receives his bonus, he is likely to feel that his effort has little to do with the amount of profits.

Use of profit sharing to build up a fund for employee-security purposes has worked well in some companies where basic wages are adequate and profits relatively stable. However, in companies where profits are volatile, profit sharing is too uncertain a means to provide, by itself, an adequate fund for retirement purposes. Unions are cognizant of this weakness and characteristically phrase their demands in terms of an adequately financed, actuarially sound pension trust requiring fixed payments by the employer.

Some companies have used profit sharing to advantage as a supple-

ment to basic wages which compare favorably with rates in other companies. They find that employee participation in such a plan reduces turnover, creates greater incentive, reduces waste and accidents—and sometimes helps to keep out a union. In other cases, profit sharing has been used with unsatisfactory results because the basic requirement of sound labor policy—adequate wages—had not first been met.

The experience with profit sharing may be summarized as follows:¹²

1. Profit sharing has been tried by a very small proportion of employers.

2. The principal, declared objectives have been (a) to provide an incentive for increased production, (b) to promote employee security, (c) to advance the social status of employees, and (d) to improve employer-employee relations.

3. Perhaps at least 60 per cent of the plans for wage earners and between one third and one half of all plans established in the United States have been discontinued.

4. The rate of establishment of plans, their rate of mortality, and the distribution to employees under such plans rise and fall with prosperity and depression.

5. Arbitrary cash bonus plans have declined in favor; and over the years, plans that establish trust funds and provide for determination of the amount of profits to be shared and its allocation to employees by fixed formulas have gained in number.

6. Profit sharing through distribution of company stock has been adopted in only a minority of the plans. Because of employee dissatisfaction and management embarrassment in times of rapid decline in the stock market, this procedure, especially as regards wage earners, is now regarded with less favor, and is only being utilized by a few concerns which have a long record of high earnings and stable stock prices.

7. The preponderance of evidence is that profit sharing has made no substantial contribution to the improvement of employer-employee relations.

8. Recent studies of profit sharing for wage earners conclude that companies should make certain that their wage rates and employment conditions are on a par with those for similar employment in the community, should establish good employee relations, and should develop well-rounded personnel programs before establishing profit-sharing plans.

9. The experience suggests that only a minority of companies can

¹² F. B. Brower, *Sharing Profits with Employees*, National Industrial Conference Board, Studies in Personnel Policy No. 162, 1957.

afford profit sharing and that even in such companies it should only be established to crown a good personnel program.

10. Profit-sharing cash bonus plans for executives avoid some of these difficulties, but substantial payments of bonuses in good years will invite stockholder and public criticism disproportionate to the net increase in the individual executive's compensation after payment of income tax.

In recent years, profit-sharing plans have experienced a revival of interest by tax-conscious employers. Most profit-sharing trusts are built up through employer contributions which are tax-deductible to the employer but are not immediately taxable to the employees as long as the trust has been approved by the Bureau of Internal Revenue. When funds are eventually paid out to employees, the payments can be treated as long-term capital gain which is taxed at a maximum of 25 per cent. Such deferral of income is extremely attractive to employees already drawing high salaries who would have to pay high taxes on ordinary increases in compensation. Based on the number of rulings requested by employers from the Bureau of Internal Revenue, it appears that the number of profit-sharing plans has increased steadily since World War II. Profit-sharing plans were reported by establishments employing about 13 per cent of office and 7 per cent of plant workers in seventeen areas recently surveyed by the United States Department of Labor.¹³ In addition to the tax advantages, employer interest in retirement plans as a means of attracting and holding capable personnel has been another reason for the wider use of profit-sharing plans.

FRINGE BENEFITS

In 1946, John L. Lewis not only gained substantial wage increases for his membership but also won an "extra" benefit for the coal miners. This was a fringe benefit—so called because it did not directly affect wages and hours. The fringe benefit constituted a welfare fund for miners, financed by a modest contribution from employers of 5 cents per ton of coal mined. Two years later, the levy on employers had jumped to 20 cents a ton, and by 1953 it was 40 cents a ton! Thus, in the course of 7 short years, what had started out as a fringe benefit assumed giant proportions and gave nonunion mines, which were not required to make such contribution, a built-in cost differential of 40 cents a ton, which they used to advantage in broadening the market for nonunion coal.

The development of fringe benefits has resembled the growth of

¹³ *Monthly Labor Review*, November, 1956, p. 1285.

John L. Lewis' welfare fund. Fringe benefits began modestly, mushroomed rapidly, and now constitute a substantial portion of total labor costs in American industry. Moreover, as current interest in pension plans and annual wages indicates, the end is not in sight.

Because fringe benefits have become costly to employers and attractive to employees, they are a potent source of friction between labor and management. Moreover, the general adoption by industry of various types of welfare plans affects business costs and so may have important repercussions on the level of employment and income in our economy.

*Development of Fringe Benefits*¹⁴

In recent years employers have granted to their employees health and accident insurance, life insurance, vacations with pay, pensions, sick-leave pay, annual wage guarantees, and other supplementary benefits which are commonly referred to as fringe benefits. Interest in this class of benefits was stimulated during World War II when union officials had to get something for their membership but were restricted so far as wage increases were concerned by wage stabilization. Unions continued their drive for fringe benefits after the end of World War II, and each year since has seen a continued spread of various forms of fringe benefits and a continuous rise in the cost of fringe benefits per man-hour. Today they cost industry an estimated \$25 billion a year.¹⁵

Employer-paid insurance premiums, for example, amounted to an insignificant sum only a few years ago. Today they have snowballed to an estimated total of more than \$700 million a year.¹⁶ The number of workers covered by health, insurance, and pension plans included in collective bargaining agreements increased from about 600,000 in 1945 to approximately 11 million in 1954.¹⁷ At least six paid holidays have become a standard provision in most union contracts. In some contracts recently negotiated, the Teamsters' Union has obtained an agreement to recognize each employee's birthday as a paid holiday!

Figure 13 illustrates how the cost of fringe benefits has jumped from 18 cents an hour in 1947 to 45 cents an hour in 1955. Moreover, the cost continues to rise with each new wage settlement. The annual cost of fringe benefits per employee in manufacturing industries is today probably close to one thousand dollars per year. A recent survey conducted by

¹⁴ Certain fringe benefits such as pensions, health and welfare plans, and guaranteed annual wages are considered in more detail in Chapters 19–20.

¹⁵ *Business Week*, July 13, 1953, p. 120.

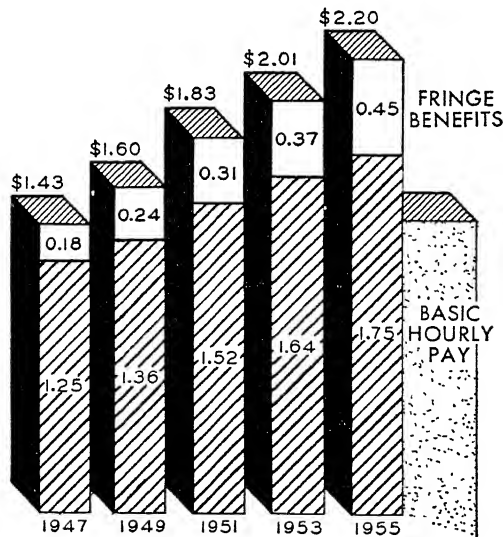
¹⁶ *Business Week*, October 13, 1951, p. 40.

¹⁷ U.S. Department of Labor, *American Workers' Fact Book*, 1956 (Washington, D.C., 1956), p. 126.

the Chamber of Commerce of the United States found that nonmanufacturing companies have, on the average, higher fringe costs than manufacturing firms and that the burden of fringe costs varies widely by industries.¹⁸

Union interest in fringe benefits and employer willingness to accede to some of the union demands is attributable in part to the peculiar tax status presently accorded to fringe benefits under federal law. If an employer were to pay an employee an additional salary with the understanding that the employee would use the money to buy himself a retirement annuity or purchase life insurance, the amount paid to the employee would be deductible by the employer as an expense in calculating taxable income, but it would be taxable as income to the employee for federal tax purposes. If, however, the employer does not give the money directly to the employee but instead sets up a group pension plan or purchases group life insurance, the employee can get substantially the same protection as long as he remains an employee of the company, but the provision for such benefits made by the employer, although deductible by the latter

FIGURE 13
GROWTH OF FRINGE BENEFITS, 1947-55*



* Based on reports from seventy-nine large manufacturers.
SOURCE: National Industrial Conference Board, Inc.

¹⁸ Report of U.S. Chamber of Commerce cited in *Business Week*, September 20, 1952, p. 146.

as a business expense, is not taxable to the employee at the time such provision is made. Exclusion of such fringe benefits from employee income is based on the theory that they are provided essentially for the benefit of the employer—to attract and retain employees—and so should not be taxed to the employees. The Federal Bureau of Internal Revenue has stated that it is examining “the whole area of the tax treatment of pensions and retirement plans and of the so-called fringe benefits.” It is therefore possible that the favorable tax treatment accorded such benefits in the past may be modified in some respects. Such a change might be reflected in a difference in attitude by both labor and management with respect to the desirability of expanding and liberalizing fringe benefits.

Fringe benefits have now become such an accepted part of the wage structure that we are apt to overlook the revolutionary change which has occurred in the entire concept of compensation. For example, wages used to be paid for time worked. Today, there are few employers who do not pay wages of some kind for time *not worked*: paid vacations, paid dressing and undressing time, and paid holidays—these are some of the common examples. A study conducted by the Bureau of Labor Statistics in seventeen labor markets during 1955–56 revealed that nearly all office and plant workers received paid vacations and paid holidays. Three fourths or more of both office and plant personnel were provided life insurance, sickness and accident insurance, or sick leave, hospitalization and surgical insurance. Three fourths of the office workers and three fifths of the plant workers were employed in establishments having retirement plans.¹⁹ It is apparent that bit by bit, American industry is obligating itself to underwrite the economic needs and the economic risks of the worker. If this trend continues, will industry eventually be saddled with a cradle-to-grave security program for employees similar to the governmental program in England? As more and more costs go into fringe benefits, payment by the hour for time actually worked will become less important. Does this mean that our traditional modes of payment will eventually be outdated? These are questions which cannot be answered today but which are a matter of concern to business and labor leaders alike.

FORMALIZATION OF WAGE STRUCTURE

In most of American industry, wages are tailored to the job rather than to the man. Management could, of course, attempt to pay each

¹⁹ *Monthly Labor Review*, November, 1956, p. 1281.

worker an amount equal to management's estimate of the worth of the individual, taking into account his age, health, skill, length of service, and similar factors. This practice is followed to some extent with respect to supervisory and executive employees and in the hiring of employees such as musicians and radio performers whose individual talents vary greatly. In a large industrial establishment, however, such piecemeal establishment of a wage structure would be expensive, time consuming and impracticable. As a consequence, most industrial establishments have adopted formalized wage structures.

Formal wage structures are generally of two kinds. A "single-rate establishment" pays the same rate to all experienced workers in a job classification. This means that a lower rate may be set for apprentices, but once a man has acquired what is considered the minimum experience necessary to qualify him for journeyman or experienced worker rates, he is paid the same rate as all other experienced workers performing the same work, regardless of variation in length of service and other factors. A "rate-range establishment," on the other hand, sets up a range of rates for a particular job and provides that specific rates for individual workers within the range are to be determined by merit, length of service, and similar considerations.

A recent study conducted by the United States Bureau of Labor Statistics covering approximately 10 million workers in 40 labor-market areas found that for time-rated plant workers, formal single-rate and rate-range plans were generally used in all areas studied, and informal systems of payment based on evaluation of the individual workers' ability and qualifications were relatively unimportant. Formal wage plans are most common in manufacturing industries and in public utilities. Informal plans which adjust wages to the qualifications of individual workers are more common among office employees. Nevertheless, this survey found that even among the latter group, the majority of office workers in 32 of 40 labor areas worked under formalized wage rates.²⁰

Formalized wage plans are found in both organized and unorganized companies. Unions prefer that men be paid on the basis of the job and that workers having the same job receive the same rate, since this reduces friction and dissension among union members. Employers also prefer compensation based on standard rates, since it simplifies the work of the personnel department. Employers also recognize that payment of different rates to employees doing the same work is likely to have an adverse effect on morale.

²⁰ *Monthly Labor Review*, Vol. LXXVI, No. 1 (January, 1953), p. 22.

SUMMARY

We have seen that the wage issue is not a simple question of how many cents per hour a worker should be paid. Wages—in the sense used in this text—can encompass a wide range of benefits from maternity care for a worker's wife to extra pay for working after 6:00 P.M. Wages are naturally important to a worker because they mean purchasing power for him and his family. But wages also have another dimension in our society which should not be overlooked. The worker, in common with other members of the community, views his wage as a symbol of his standing in the community. It is an aspect of his status in our economic society. That is why benefits such as a third week of paid vacation, for example, are so important. If John Jones is home cutting the lawn while Bill Smith is working at the plant because his company did not give the third week of vacation, you can bet that Mrs. Jones and Mrs. Smith are discussing the injustice of it all and that Bill Smith—and eventually his employer—will hear about it!

In the next chapter, we shall consider other problems arising out of the employer-employee relationship which do not directly involve wages but are important issues in the collective bargaining process.

QUESTIONS FOR DISCUSSION

1. Discuss the various forms of incentive payment. Is it true that unions oppose piecework and favor time payment? Support your answer.
2. List as many benefits as you can think of which would fall within the category of fringe benefits.
3. Discuss the pros and cons of profit sharing.

SUGGESTIONS FOR FURTHER READING

UNITED STATES DEPARTMENT OF LABOR. "Supplementary Wage Provisions in 17 Labor Markets, 1955-56," *Monthly Labor Review*, Vol. LXXIX (November, 1956), pp. 1281-87.

A statistical survey of important fringe benefits.

KENNEDY, V. D. *Union Policy and Incentive Wage Methods*. New York: Columbia University Press, 1945.

A study of union attitudes toward incentives.

BROWER, F. B. *Sharing Profits with Employees*. National Industrial Conference Board, Studies in Personnel Policy, No. 162, 1957.

An up to date, realistic analysis of the scope and role of profit sharing.

Chapter 6

THE CONTENT OF COLLECTIVE BARGAINING: INDUSTRIAL JURISPRUDENCE

The process of collective bargaining, as we have seen from the previous chapter, is a method of determining the price of labor, that is, of fixing wages. An additional important function of collective bargaining is to formulate the rules and regulations governing the employment relationship.

Where there is no union, management's labor policies may be liberal or restrictive, but in either case they are *management's* policies. Management is free to discharge, to promote, to hire, or to lay off in any legal manner in which it desires. But when a union represents the employees, these functions and many others which were once the prerogative of management become subject to a variety of rules. Some of these rules are written into an agreement between union and management; others are simply accepted by both parties and remain unwritten; and still others are embodied in federal, state, or municipal laws, often as a result of pressure by unions or employers.

Whatever the form of the rules, they embody the system of "industrial jurisprudence" by which the relation of union and management is regulated.¹

NO UNIFORMITY OF RULES

The rise of a system of industrial jurisprudence is traceable to a number of factors. Basically, however, it is the result of American workers' demands that industrial relations be conducted according to rules which labor has had a voice in formulating. Industrial relations by fiat of the boss is anathema to workers who have been raised on stories of American democratic principles.

¹ S. H. Slichter, *Union Policies and Industrial Management* (Washington, D.C.: Brookings Institution, 1941), p. 1. This chapter has drawn heavily on Professor Slichter's excellent analysis.

The type of rules developed in a particular industry or shop reflects the problems encountered there. The industrial pattern, including the extent of product competition, the character of the labor market, the degree of union and nonunion competition, the rate of technological change, and a host of other socioeconomic factors determine particular union policies. What one union finds suitable in a particular situation, another in a different locale will reject as unworkable. Union policies are a function of their environment. Hence, we find a wide variety of policies pursued by various unions. Popular statements to the effect that "all unions desire the closed shop" or "all unions favor seniority" or "all unions oppose incentive systems" have no basis in fact.

UNION SECURITY

A primary aim of most unions is "union security," and this usually involves some form of compulsory union membership and automatic dues checkoff. Whether a union will demand a "closed shop" (under which employees must join the union as a prerequisite to employment) or a "union shop" (under which the employer may hire anyone he chooses, but after a probationary period of 30–90 days all employees must join the union as a condition of employment) will vary with the type of employment and labor market. In general, the closed shop is found among skilled and strategically located trades and in industries in which employment is casual and intermittent. The closed shop differs from the union shop primarily in that it is not only a means of "union security" but also a method of controlling entrance to a trade or industry. Other forms of union security, including methods of "checking off" dues and thus assuring unions of a flow of funds, are described in Table 12.

Approximately 80 per cent of the 18,000,000 employees covered by union agreements are working under some form of union-security provisions. Union-security clauses are rarely found abroad.² They originated in the conditions surrounding the growth of American unions.

For the reasons discussed in Chapter 2 the growth of the American labor movement has been slow and employer opposition to union recognition strong. The closed or union shop became a necessary weapon for union existence in most industries. Only if union security was achieved could the union count on effective protection from employer discrimination against union members. In many cases, the closed- and union-shop provisions were necessary to induce workers to join the union, not so

² New Zealand requires compulsory union membership by law under certain conditions.

TABLE 12

TYPES OF UNION SECURITY AND CHECKOFF

UNION SECURITY TERMS	CHECKOFF TERMS
<i>Closed Shop</i> —Employer agrees that all workers must belong to the union to keep their jobs. He further agrees that when hiring new workers he will hire only members of the union.	<i>Voluntary Irrevocable</i> —Employer agrees to deduct union dues and other monies from the worker's wages only if the worker signs a form authorizing him to do so. This generally requires that the worker's authorization shall not be irrevocable for more than 1 year or beyond the termination date of the contract, whichever is sooner.
<i>Union Shop</i> —Employer agrees that all workers must belong to the union to keep their jobs. He can hire whom he wants; but the workers he hires must join the union within a specified time (usually 30 days) or lose their jobs.	<i>Year-to-Year Renewal</i> —Employer agrees to deduct dues and other monies from the worker's wages if the worker signs a check-off authorization. If the worker does not revoke his authorization at the end of a year or at the contract termination date, it goes into effect for another year.
<i>Modified Union Shop</i> —Employer agrees that all present and future members of the union must remain in the union for the duration of the contract in order to keep their jobs. (Present workers who are not in the union and who do not join the union in the future can keep their jobs without union membership.) The employer further agrees that all new employees must join the union within a specified time (usually 30 days) or lose their jobs.	<i>Voluntary Revocable</i> —Employer agrees to deduct union dues and other monies from the worker's wages if the worker signs a form authorizing him to do so. The worker can revoke this authorization any time he sees fit.
<i>Agency Shop</i> —The employer and the union agree that a worker shall not be forced to join or stay in the union to keep his job. The worker has the choice of joining or not joining. But if he elects not to join he must pay to the union a sum equal to union dues. This sum represents a fee charged him by the union for acting as his agent in collective bargaining and in policing the union contract.	<i>Automatic</i> —Employer agrees automatically to deduct dues and other monies from the worker's wages and turn the money over to the union.
<i>Maintenance of Membership</i> —Employer agrees that all present and future members of the union must remain in the union for the duration of the contract in order to keep their jobs. (Workers who are not in the union and who do not join the union in the future can keep their jobs without union membership.)	<i>Involuntary Irrevocable</i> —Employer agrees that to secure and keep his job a worker must sign a form authorizing the employer to deduct union dues and other monies from his wages.
<i>Revocable Maintenance of Membership</i> —Employer agrees that all present and future members of the union must remain in the union to keep their jobs. But he specifies that workers can leave the union during specified periods (usually 10 days at the end of each year) without losing their jobs.	SOURCE: J. J. Bambrick, <i>Union Security and Checkoff Provisions</i> , National Industrial Conference Board, Studies in Personnel Policy, No. 127 (1952).
<i>Preferential Hiring</i> —Employer agrees that in hiring new workers he shall give preference to union members.	

much because of their reluctance to join but because of their fear of consequences in the form of employer retaliation if they joined voluntarily.

In England, unions found little need of union security. The English unions grew at a more rapid rate than those in the United States and encountered much less employer opposition. Complete union membership was achieved not by union-security provisions in contracts but by direct action among employees. Men unwilling to join unions in England are usually compelled to do so either because union men will not work with them or else because they find that failure to join unions means social ostracism or other types of effective pressure. Such methods proved ineffective in America in the face of employer opposition to unions and the lack of class consciousness on the part of employees.

In Sweden, the union-security issue was taken out of collective agreements by industrial relations statesmanship. The central employer and union federations agreed in 1906 that employers would recognize unions as bargaining agents for workers, and unions in turn would not demand the closed or union shop. At the same time in the United States, the National Association of Manufacturers was waging a "holy" war on unions under the slogan that the "open" shop was the "American way." Small wonder that in the United States the refusal of employers to grant the closed or union shop has often been taken by unions as proof that the employer would like to destroy the union!

Theoretically, the passage of the National Labor Relations (Wagner) Act in 1935 eliminated much of the need for union security. This act outlawed employer discrimination against workers because of union membership and required employers to bargain with duly certified unions. Nevertheless, union-security demands lost none of their intensity. This was true partly because union leaders and members believed, often with considerable justification, that employers were opposed to unions and could circumvent the law; partly because emotionally they could not imagine successful unionism without the closed or union shop; and partly because of a new development—the rise of rival unionism on a scale heretofore unknown. The existence of a union-security provision deters raiding by rival unions, and thus gives unions "security" from another angle.

If present union demands for union security are dictated more by emotion than need, so often is management's response. This response is frequently couched in terms of individual liberty, the right to work, etc., whereas the real issue is more likely to be who controls hiring or discharges—union or management. On many occasions, management has granted additional wage benefits in lieu of union security—only to yield on the union-security issue a year or so hence.

Arguments pro and con the closed or union shop are actually matters for individual determination. If one believes that under no condition should a person be compelled to join a union in order to have the right to work, one is opposed to union security. If one believes that persons should be compelled to support an organization which has won certain benefits in which they share, one favors union-security provisions. These are irreconcilable value judgments.

Although nearly all unions advocate union-security provisions, such provisions may in the long run be detrimental to the unions themselves. This is particularly true in cases where a union or closed shop exists and employment in the plant expands considerably so that new workers are enrolled in the union faster than they can be assimilated. The new employees, not being aware of the improvements which the union may have achieved in wages and working conditions, are likely to be antagonistic toward compulsory union membership and to regard the requirement that they pay union dues as an unfair deduction from their earnings. Conscripts do not make good union members. In times of strife or other difficulties, the union finds that its bargaining power has been reduced because of the fact that it cannot count upon its members who, without experience or indoctrination, were forced into the union.

The most fundamental charge against union-security provisions is that they encourage dictatorial union administration. Abuses of this type, however, can be curbed. For example, by forbidding unions to cause the discharge of employees except for nonpayment of dues, the Taft-Hartley Act mitigated one abuse. A more thorough program would subject all expulsions from unions to impartial arbitration and would outlaw unreasonable restrictions on union membership. Such a program would curb the "closed union"—a situation in which union membership is denied new applicants for any reason whatsoever.

The Taft-Hartley Act outlawed the closed shop and required a majority vote of the affected employees before other forms of union security could be negotiated. Neither restriction has been conspicuously successful. There is general agreement that the ban of closed shops has been consistently circumvented or ignored by unions and employers who had heretofore operated under closed-shop provisions. The intent of Congress was to prevent restrictions on entrance to a trade by the closed shop; but so far custom has prevailed over law.

The restriction on other forms of union security stemmed from the belief that union security was forced on workers by union officials. But by secret ballot required by the Taft-Hartley law, less than one worker out of eight rejected union security. As a result, union-shop contracts con-

tinued to spread in industry. In 1952, Senator Taft joined in sponsoring an amendment to the law, which bears his name, eliminating this restriction on the negotiation of union-security provisions. The ban on closed shops, however, remained in the law.

The most effective attack on union-security provisions stemmed from still another section of the Taft-Hartley Act—Section 14(b) which made state laws regulating union-security agreements paramount over the Taft-Hartley Act, provided the state laws are more restrictive. Eighteen states have passed legislation outlawing all forms of union security. All but one—Indiana—are rural states of the South and West where unions are already weak.³

The drive for these laws has been well financed and directed by the National Association of Manufacturers and, a newer organization in the field, the National Right to Work Committee. As the name of the latter organization indicates, the banning of compulsory unionism is sold to legislators on the theme that it will “maintain a basic American freedom—the right to work.”

Unions, of course, argue that no one has a right to work in a particular establishment. He has only a right to seek employment. To gain and maintain work, a person must comply with numerous regulations of government and industry.

Nevertheless, more than 50 years of propaganda against compulsory unionism in rural areas and small communities have made “right-to-work” legislation a lively issue in nearly all state legislatures, most of which, in spite of the urbanization of our country, are still controlled through outmoded apportionment techniques by rural and small-town representatives. Significantly, it was the representatives of these groups which pushed through the Indiana ban on compulsory unionism in 1957, with such large businesses as General Motors, Radio Corporation of America, Cummins Engines, and Seagram’s in opposition.

The fight over compulsory unionism obscures real issues. Proponents want it to stop union growth, and unions blame their failures on it. Yet in Texas, since the passage of a stringent “right-to-work” law, the rate of union growth has been more rapid than in the country as a whole.⁴ Proponents declare the ban on compulsory unionism will encourage decent, uncorrupt unionism. Yet no one has found the Teamsters’ Union

³ The states which outlaw all forms of union security are: Alabama, Arizona, Arkansas, Florida, Georgia, Indiana, Iowa, Mississippi, Nebraska, Nevada, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, Texas, Utah, and Virginia.

⁴ Frederic Meyers, “The Growth of Collective Bargaining in Texas,” *Proceedings* (Industrial Relations Research Association, 1954), pp. 288–89.

more socially useful in the eighteen states which have right-to-work laws than in the other thirty.

The real accomplishment of the half-century fight over compulsory unionism has been to obscure basic issues, to add emotional content where objective discussion and action are needed, and to prevent more mature consideration of the basic issue of union power and its social control.

CONTROL OF ENTRANCE TO THE TRADE

Attempts to control entrance to the trade are limited largely to craft unions. Except for a few such as the United Mine Workers, who have been able to utilize license laws, industrial unions do not find it feasible to control entrance. Their members learn their tasks by experience. They permit the employer to recruit the work force and exert their control in other ways.

Craft unions, however, have found that control of entrance is an effective method of increasing their bargaining power. Their efforts take two principal forms: regulation of apprenticeship and support of licensing legislation.

Regulation of Apprenticeship

Nearly all unions whose membership includes journeymen, for which apprenticeship is customary, attempt to regulate the terms and conditions under which apprentices are employed. Apprenticeship is, however, only one of the many ways in which a vocational aptitude may be gained; indeed in most occupations, training is acquired by other means. As a result only about one fourth of American unions actually participate in apprenticeship regulation.

The most common method of regulating apprenticeship is to control the proportion of apprentices to journeymen. If unions did not regulate this ratio, employers would be in a position to hire nearly all apprentices and thus to drive the journeymen out of their jobs.

Agreements in such industries as the printing and building trades, where craft unionism is common, normally contain provisions for the employment of one apprentice to every four to eight journeymen. In addition many unions negotiate agreements which place an absolute limit on the number of apprentices which can be hired.

In addition to controlling the number of apprentices by a direct limitation, unions can also control apprentice training by controlling the wages of apprentices. The higher the wages of apprentices are set, the more costly it is for the employer to use apprentices. Thus a liberal ratio

of apprentices to journeymen may be nullified by an unreasonable rate for the use of apprentices.

Few unions require the serving of an apprenticeship as a condition of membership. Perhaps more would, if they completely controlled entrance to their trade. The fact of the matter is, however, that so many Americans either pick up a trade without formal training or have secured their training in foreign lands from which they emigrated that it would not be practical for unions to make apprentice training an absolute prerequisite.

The reasonableness of union apprentice regulation varies from industry to industry. There has been considerable evidence in certain trades, including building and printing, that union apprentice regulations have been utilized to prevent newcomers from winning a place in the industry, and in other cases such limitations have actually created artificial shortages of labor. For example, in the New York mirror industry, union restrictions prevented the employment of apprentices for over 15 years so that by 1946 an acute shortage of labor developed which still exists.

One must make several qualifications, however, to any blanket condemnation of union restriction of apprentices. In the first place, some restriction is essential to prevent employers from keeping apprentices at work and laying off journeymen. In the second place, a number of studies have shown that nonunion employers do not hire as many apprentices as union employers and that, in addition, many union employers do not hire as many apprentices as the union rules permit even in cases where the wage rates for apprentices are not excessive. These findings should not be surprising. The employment of apprentices can be costly to employers, particularly during the first 2 years of the average 4-year apprenticeship. An apprentice is likely to cost more than he is worth in terms of production. Moreover the employer has no guarantee that the worker will remain for the full apprenticeship course or that if he completes the course, he will remain as an employee with the employer who trained him. Consequently, many employers do not hire apprentices even when there are no union bars to their employment.

Unions perform some definite services in regard to apprentice training. For one thing the existence of a strong union prevents an employer from keeping an apprentice on a particular task which he has mastered instead of giving him a well-rounded mechanical education. The temptation for employers to confine apprentices to a small section of the mechanic's job is very great, for in such cases they are receiving work of mechanic's quality for apprenticeship wages. In addition, apprentices who jump their training usually find the existence of a union a bar to attempts

to pass themselves off as journeymen. This protects the public and employer against poorly trained mechanics.

On the other hand, unions have tended to maintain or even to extend the terms of apprenticeship when they have become obsolete. Thus it is highly doubtful whether today 4 or 5 years is a necessary term for learning many of the building crafts which require apprenticeships of that duration. It would appear probable that these terms could be shortened, but unions fear to do that because their rules and restrictions are based on the number who can be expected to become journeymen after 4- and 5-year apprenticeships. Any reduction in the terms would probably be accompanied by a reduction in the percentage of apprentices permitted in union agreements.

Finally, apprentice training as a whole is not likely to be a very efficient method of providing qualified labor when it is needed. Typically, during periods of depression, no apprentices are trained so that in following periods of prosperity there is a great shortage of skilled labor. Then in the prosperity period the number of apprentices being trained increases tremendously. By the time some of these apprentices become qualified journeymen, business conditions and their opportunities for employment have worsened. If apprenticeship training is to be continued, it may have to be done at public expense in order to insure a continuous supply of skilled craftsmen.

Licensing Legislation

A number of unions have sought to limit entrance to the trade by means of licensing legislation. Most prominent among them have been the plumbers, electricians, barbers, miners, stationary engineers and firemen, and motion-picture operators. These unions have sponsored state laws and municipal ordinances which require workers in the trade to pass tests as a condition of employment therein. Generally, these laws give unions and employer associations prominent places in their administration. Ostensibly, they are enacted in the interest of the safety of the consumer. Actually, their real purpose from a union point of view is to limit entrance into the trade and to increase union bargaining power by making it more difficult for employers to employ strikebreakers.

No careful study of licensing legislation has ever been made. Such evidence as is available, however, indicates quite clearly that licensing laws are frequently abused and that their value to the consumer varies considerably. For example, such laws may be used as a vehicle for race discrimination, or to restrict artificially the number of qualified mechanics.

The problem of licensing legislation extends beyond the limitations of unions. The medical, legal, dental, and the other professions which advocate licensing legislation have encountered the same problems. Any study of the value of licensing legislation to the community should include the activities of the American Medical Association as well as those of the United Association of Plumbers and Steamfitters of the United States and Canada.

Although a purpose of licensing legislation is to limit the number of workers in the trade, it can have the opposite effect. By making it almost impossible to import strikebreakers, licensing laws enable unions to raise wage rates. This is likely to attract workers to the trade since the average person thinks in terms of hourly rates rather than annual earnings. Hence, the net effect of licensing laws may be to increase rather than decrease the number of workers in a craft. The effectiveness of the licensing laws and their administration from the union point of view will then be determined by the extent to which the legislation prevents the pool of labor attracted by the high rates from entering the trade.

CONTROL OF HIRING

In an unorganized labor market, the employer controls both hiring and layoffs. When a union enters the picture, it must secure some voice in at least one of these vital matters. Otherwise, the union can be of little service to members who fear discrimination because of union membership, or who want hirings and/or layoffs conducted by rules rather than by employer fiat.

Methods of Controlling Hiring

The most common method of controlling hiring is by means of the closed shop, requiring employers to hire only members of the union, or if no union members are available, persons willing to join the union. Some agreements go further by requiring the employer to hire only through the union office or through a hiring hall which may be controlled by the union, by the union and the employer in co-operation, or by a third body, e.g., a government bureau.

Control over layoffs often involves indirect control over hiring, especially if, as on the railroads, employment is declining on a secular basis. In the railroad industry, the unions have concentrated on controlling layoffs by the seniority principle. The seniority agreements, however, provide for preference for furloughed men in rehiring in the order of the

furloughed men's seniority, i.e., length of service with the company. If there is a large pool of furloughed men, the employer's freedom to hire is restricted almost as severely under this type of seniority agreement as under the closed shop.

Besides these general controls, a few unions have restricted the right of employers to require physical examinations or have secured agreements providing for the employment of a limited number of older workers or nonlocal workers. Except possibly for the last, these restrictions are of little importance since they arise out of particular situations. For example, physical examinations were once widely used by employers to rid themselves of active union members, but this practice is no longer common. Requirements that employers hire a certain percentage of older workers are far less important than seniority provisions in safeguarding jobs for the older worker in industry. And restrictions on hiring nonlocal employees are found mainly in the amusement and building trades where they are utilized to improve job prospects of local workers against traveling amusement companies or nonlocal building contractors who are likely to hire their labor at their home location. Restrictions on the use of nonlocal labor assume more importance in depressed times as local unions, often contrary to national union policy, attempt to "look out" for the local members.

As in the case of control over entrance to the trade, control over hiring is practiced mainly by the craft unions. The main exceptions involve, first, such control over hiring as results from control over layoffs (for example, seniority provisions); and, second, control over hiring by industrial unions in industries where employment is casual and intermittent or seasonal, as in the maritime or needle trades. Most other unions do not operate in labor markets which permit them to exert control over hiring. Hence, except indirectly through seniority provisions, most industrial unions concentrate on control of layoffs and do not attempt to restrict employer control of hiring.

The effects of restrictions on hiring vary considerably. Obviously, as our study of union admission policies in Chapter 3 showed, the closed shop can be a very restrictive vehicle if combined with discriminatory admission policies, high initiation fees, or the refusal to admit new workers to the union. On the other hand, the closed shop need not be, and often has not been, accompanied by these abuses. Moreover, even with restrictive admission policies, a union may not unduly curtail the supply of labor to the firm or industry. Because union rates are most always higher than nonunion ones, a larger pool of labor is often attracted than can find employment in the union organized shops. "This explains the

paradox of a large number of local unions practicing restrictive membership policies without depriving employers of an adequate labor supply.”⁵

Hiring Halls

It is quite common in many industries where the average employer is small and the unions are organized on a craft basis for the employer to hire through the union office. Sometimes this custom arose more as a convenience to employers who wanted a central hiring office than as a means of union control. Generally, however, it is a result of union demands provoked by special market conditions. In trades or industries where employment is intermittent or casual, for example, building or maritime, hiring through the unions is the only method by which the union can secure equal division of work for its membership and end systems whereby a small portion of the membership secures the bulk of the available work.

Although unions may demand that employers hire through them in order to avoid abuses, the net effect may be the substitution of new abuses for old. For example, in the building trades the business agent has frequently substituted his favoritism for that of the contracting foreman. The opportunities to use job dispensations as a means of building up one's personal political machine within the union are immense, and the temptation is frequently succumbed to. In order to protect themselves against such methods, the rank and file of many unions may require officials to rotate jobs on a first-come, first-served basis. This, however, can place a heavy burden on both employers and on the most efficient men. It severely restricts the right of employers to choose men whom they deem competent. And since, especially in the building trades where the unions do not control layoffs, the least efficient are the first fired and thus the first in line for new jobs, the efficient men are at a disadvantage once they are laid off.

In the garment trades, where employment is highly seasonal, unions control hiring but permit employers latitude in rejecting employees. Thus a typical agreement provides that employees of a given craft may be sent in rotation, but the employer has the right to discharge without union complaint during a 2-week probationary period. Contracts in other industries vary, some giving the employer the right to reject at least two persons sent by the union office for a job, but upon rejecting a third, the union may challenge the employer to prove incompetency through the grievance machinery.

Formal hiring halls are most common in the maritime industry. Because employment in this industry is casual, there is usually a larger labor

⁵ Slichter, *op. cit.*, p. 67.

force attached to it than there are jobs at a given time. This has encouraged a host of antisocial hiring practices and racketeering at the expense of the workers, such as selling jobs, forcing employees to borrow money at exorbitant rates, or to patronize retail establishments in which employers have an interest, etc. Longshoremen in New York City were still employed in 1953 without a central hiring establishment, despite the fact that a series of studies since 1915 have urged that the present system be abolished and despite knowledge that the New York City water front has been a virtual cesspool of racket-run unions, led by numerous thugs and ex-convicts, who prey upon, rather than represent, longshoremen. Finally, after federal and state crime commissions exposed the situation once more, the New York and New Jersey legislatures and Congress enacted laws in 1953 designed to curb this terrible situation.

Hiring halls have been established by the International Longshoremen's and Warehousemen's Union on the West Coast, and by nearly all the nonofficer seamen's unions. Although theoretically a number of these hiring halls are jointly run by labor and management, union control appears to be dominant. For example, the requirement that the dispatchers who send out the longshore crews on the West Coast be members of the International Longshoremen's and Warehousemen's Union won almost complete control of the hiring halls for that union in the 1934-48 period. Since then, West Coast longshore employers have charged that the union dispatchers often refuse to supply employers with new workers if men were discharged because of incompetency and have favored adherents of the Communist Party with jobs.

The hiring halls for seamen are frequently under full union control. "The National Maritime Union has fought hard for union-controlled hiring halls partly in order to equalize employment opportunities but partly to make the men more dependent on the union and to prevent companies from developing more or less permanent crews which are loyal to the company."⁶ In recent years, however, employers in the maritime industry have apparently been satisfied with the NMU's hiring halls because they expressed apprehension when the Taft-Hartley Act threatened to do away with them under the closed-shop restriction.

Closed Unions and Hiring Halls

In the maritime industry, hiring hall schemes must assume some restrictions of entry to be workable. One of the causes of favoritism and racketeering in hiring on the water front is the fact that, especially in depressed times, unemployed workers drift there, often attracted by the

⁶ *Ibid.*, pp. 84-85.

high hourly rates. If the "drifters" are granted free entry into the organization, the hiring hall becomes a vehicle for sharing poverty rather than sharing work. The unions must, therefore, either refuse admission to newcomers or enforce some sort of seniority regulations which modify rotation schemes and give preference to the workers who have been longest attached to the industry. The former policy is more often pursued because the admission to membership of workers for whom there are no jobs provides a hard core of opposition to incumbent union officers. Moreover, the "unemployed brothers" are likely to congregate in the union hall and to be able to attend all meetings. They thus are in an excellent position to control union policy out of proportion to their numbers.

CONTROL OF LAYOFFS

The depression which began in 1929 stimulated a tremendous interest in seniority and division-of-work provisions. Indeed, thousands of workers joined unions during the 1930's because they believed that layoffs during the depression had been unfairly conducted and they wished to prevent recurrence of such experiences.

The interest of unions in layoff policies stems from the worker's desire to know where he stands—that is, to know what chance he has of retaining his job in case the business of the firm materially declines—and, also, from the desire of unions which cannot control hiring to prevent employer discrimination against union men in layoffs.

Not all unions attempt to control layoffs. In industries such as building and maritime, union control of layoffs is not feasible. Thus provisions to give preference according to seniority or to divide the available work among existing employees have no meaning on a construction job which is completed in a given period or in a maritime position which is over when the ship returns to port or when the ship cargo is loaded. These unions, as noted in the previous section, concentrate their control on hiring. The labor market in which they find themselves precludes layoff control.

Seniority

The two basic methods of union layoff control are seniority and equal division of work. Seniority agreements generally provide that employees in a plant or subdivision thereof shall receive preference in layoffs and rehiring in the order in which they were hired. In some cases, as on the railroads, seniority agreements are quite rigid, the only requirement being ability to perform the job. In other cases, seniority provisions

are much weaker, giving the employer the opportunity to select a more competent person over one with greater seniority. A few agreements provide for retention by the employer of a small percentage of personnel in slack times regardless of seniority so that the plant will be manned by a key basic work force. Other agreements place the union-shop steward or committeeman at the head of the seniority roster.

Seniority is most common in the railroad, automobile, iron, steel, rubber, electrical products, and other mass-production industries. In the mass-production industries the extent of the seniority district or unit varies considerably. Sometimes the seniority district is the plant, sometimes a plant division, or a department, or an occupation, or some combination thereof. In general, management prefers the smallest possible seniority districts with no provisions for workers to hold seniority in more than one district. Under such regulations, layoffs and rehiring do not involve much dislocation in the plant and hence do not interfere materially with the efficient organization of personnel.

Union and employee preference as to the size of seniority districts varies considerably. In general in times of unemployment, skilled workers prefer wide seniority districts and unskilled workers narrow ones. This is because skilled workers can replace unskilled ones but not vice versa. Hence, the wider the seniority district in times of layoffs the greater the chance for the skilled worker to find a spot by exercising his seniority, and the greater the chance that the unskilled worker will be pushed out of a job. In times of prosperity the opposite is likely to be true because expanding employment gives unskilled workers the opportunity to advance in the occupational hierarchy, and this they like to do without sacrificing their seniority in their former jobs. On the other hand, skilled workers see in expanding employment more competition for jobs when times become depressed. Hence, they favor narrow seniority districts during prosperous periods.

The attitudes of union officials vary, but the writers have observed an increasing tendency on the part of union leaders to shift their preference from large districts to narrow districts. Many union leaders have come to the belief that the narrower the seniority district, the less the internal union stress in times of layoffs.

Some Effects of Seniority

The widespread use of seniority provisions in industrial relations has some salutary and some unfortunate effects. The most important argument in favor of seniority is that it affords the worker knowledge of his

position vis-à-vis his fellow workers. Although seniority is frequently confused with security, it should not be since, if the plant in which the worker holds seniority ceases to operate, seniority is of no value whatsoever. Moreover, for every worker which seniority retains on the payroll, another must be discharged. Seniority, however, is an impersonal criterion and rules out personal favoritism which workers fear so much. And it does have a sort of rough justice since it gives preference to those who have worked the longest and who presumably have the greatest equity in their jobs. These are the sources of its popularity.

On the other hand, it cannot be denied that seniority puts a premium on mediocrity. The person who is least willing and able to take advantage of opportunities in other plants or who has least ability and, therefore, does not receive such opportunities is the one who stands the greatest chance of reaching the top of a seniority roster. For those who like to get ahead by standing still, seniority is a godsend. For those who yearn for the opportunity to advance quickly on merit, seniority is a bane.

Seniority may reduce plant efficiency by giving key jobs to men past their prime, by disregarding ability, and by discouraging incentive. And it reduces labor mobility because men fear to give up seniority to take a new job.

A seniority rule requiring that furloughed men be rehired in order of their seniority is likely to increase the labor reserve attached to an industry. Despite unemployment in the railway shops and higher wages in war production, railway shop employees refused to leave that industry during World War II because they did not wish to lose their accumulated seniority. Special agreements which provided for retention of seniority by men who left peacetime jobs for war production got around this difficulty. In ordinary times, however, the effect is to create an unemployed group in some areas even where preferable employment is available elsewhere.

The "rough justice" of seniority may, moreover, be very crude. For example, during the depression, railroad employees of 15 and 20 years' experience were furloughed. Obviously, many of these were family men with as much equity in their jobs as those who were retained on the payroll, or even more. For the oldest employees in service are often grandparents, the peak of whose family and financial obligations has passed, whereas the middle group are most likely to be in the life period of top responsibility.

In some instances, seniority and other union layoff policies may improve managerial efficiency. The fact that employers can no longer dis-

charge workers at will forces them to improve selection and training facilities. Moreover, union controls prevent the degrading practice of buying favors from foremen and other such favoritism on the job.

From the community point of view, seniority gives the not-quite-so-efficient worker an opportunity to improve instead of being cast out, often prematurely, as unemployable. And it protects the older worker with many years of efficient service from being laid off in times of slack employment.

Seniority causes many internal union problems. For example, there is frequently dispute over what constitutes length of service. Occasionally, service is interrupted for one reason or another, and a wide divergence of opinion is likely to arise both between employer and union and among employees as to whether breaks in seniority for one or another reason should be overlooked. On numerous occasions, internal union disputes over seniority provisions and their interpretation have resulted in lengthy and costly litigation.

Seniority provisions have profound effects on strikes. In the first place, the senior men are much less willing to strike than those who have less seniority and hence less to lose. "Quickie" strikes called without union approval were numerous in Detroit automobile plants during World War II but declined precipitously after war production was cut back. The basic reason was that during the interim between full war and full peace production, the newer workers in the industry were laid off because of seniority provisions. The senior men who then made up the employed labor force, being much less "quick-on-the-trigger," settled their grievances peacefully.

Seniority makes strikes which do occur difficult to win for unions, and even more difficult to settle if strikebreakers are employed. Once on strike, senior men are likely to be apprehensive and to be ready to return at the slightest hint that their jobs are being filled. At the same time, junior men are likely to be strongly tempted to scab in order to leap from the bottom to the top of the seniority roster.

Seniority rules may in some circumstances perpetuate discrimination and in others protect minority workers. For example, many Negroes entered industry for the first time during World War II and many won permanent positions.

Since they were the last hired, however, they were the first laid off when war production was cut back. On the other hand, some Negroes did obtain sufficient service to entitle them to some seniority protection. As a consequence, the widespread discrimination against Negroes which occurred after World War I was not repeated after World War II.

The extent to which seniority should be diluted by ability is a constant source of friction in some plants. In general, it may be said that managements which have attempted to retain superior men in layoffs have a greater chance of escaping union challenge if they do so only when the superiority is obvious. If, however, attempts are made to disregard seniority when the differences in ability between junior and senior men are not obvious, the union will probably press for a straight, undiluted seniority clause.

Continued emphasis on selection of personnel by seniority diminishes initiative and reduces opportunities for younger men. Industry and society need young men with new ideas and the courage to put them into effect. By overemphasizing seniority in industry, government, and in other walks of life, society retards the advancement of wealth and progress. Fortunately, in many industries seniority provisions relating to promotions are much more elastic than those relating to layoffs. In order to keep them so, management must improve its testing and training procedures, and it must not abuse the power to promote without regard to seniority.

Despite the limitations of seniority in both layoffs and promotions, its widespread use is likely to continue. And the main reason for this fact is that men have not discovered sufficiently accurate objective testing methods or criteria for rating other men. When an employer states that because Jones is the more able he is laying off Smith instead of Jones, even though Smith has the higher seniority, that may be only the employer's opinion. Men who are equally fair-minded and capable may come to the opposite decision. Despite the ill effects of seniority, we have failed to develop an adequate substitute.

Division of Work

In a number of industries, division of work is either substituted entirely for the seniority principle or combined with it. The garment trades provide the outstanding example of the complete use of division of work as union layoff policy and the almost complete absence of the seniority principle. The reason is that the average worker in the garment trades is employed not by one company but by several during a given year. The industry is highly seasonal so that a worker who has 25 years' experience in the labor market may be the last one employed by a shop which is no longer able to operate at full capacity. The seniority principle would work a hardship on the more experienced worker because he happened to be the last hired during this particular season. Hence, most contracts in the garment trades provide for complete division of work among all employees in the shop regardless of length of service. The one exception

is for probationary employees who are hired under closed-shop agreements which permit the employer to place new workers on 2 to 4 weeks' probation during which the new employees may be discharged for any cause whatsoever. Usually the garment labor agreements provide for the laying off of probationary employees before the division of work commences.

Many unions and employers have found that a combination of division of work and seniority is an equitable compromise. A typical agreement in industry today may provide for division of work within a department of a plant up to the point where the employees are working an average of 32 hours per week. Thereafter, employees are laid off on the basis of seniority so that the average hours in the shop or department are maintained at 32. This permits the maximum number of employees to work without converting division of work into a division of poverty. For if the average hours per week fall below 30, no employee will earn enough to support himself.

Analysis of Division of Work

The main advantage of equal division of work is that it preserves union solidarity, for all members of the union are treated equally, and cleavages, such as those which develop between senior and junior men under seniority provisions, are avoided. The main difficulty with equal division-of-work plans is: (1) that they are likely to be utilized to a point where no one secures adequate compensation, and (2) they tend to be used to meet permanent declines in employment although they are essentially ill-suited for such use.

Work sharing below 30 hours has the effect of reducing the incomes of the entire work force. It often puts everybody on a relief standard. In many instances it is preferable to set a limit below which work will not be divided and to institute temporary layoffs at that point. The practical difficulty is deciding which members shall be laid off. Seniority is usually the criterion used, but in industries such as the garment trades, it would not be workable. Despite the weaknesses of complete division of work which are well understood by many union leaders, it is often considered preferable to maintain the division at very low-employment levels rather than to stir up intraunion strife by suggestions that a portion of the workers be laid off so that at least some of the work force can earn a living.

The other problem of division of work occurs when the layoff is not a short-term phenomenon resulting from a seasonal or cyclical decline in business but is the result of a permanent drop in business and/or em-

ployment resulting from secular factors or technological advancement. Here again the union is faced with a dilemma. If it enforces its work-sharing program, it becomes an agency for encouraging workers to remain attached to the industry at low incomes—in other words, the union converts itself from an income-raising to an income-lowering instrument. This is precisely what happened in the New York City live poultry industry, the leather industry, and what apparently is happening in bituminous coal mining.

On the other hand, if the union adopts a program of reducing the labor force attached to the industry, a cleavage is likely to develop within the union over who is to be severed. Here the best possibility for settlement appears to be a program of dismissal wages.

Dismissal Wages

In addition to seniority and division of work, recent years have seen a considerable increase in interest in dismissal wages. Dismissal compensation is fundamentally a device to mitigate losses resulting from permanent dismissal rather than temporary layoffs. It is utilized in instances in which employees are severed from the payroll as a result of plant abandonment or movement to another area, or as a result of a permanent decrease in the working force. In cases of permanent severance of employees who are near, but have not achieved, the retirement age, a dismissal wage may be used to make up earnings until the employee reaches the age when he is eligible for a pension. Because of the economic implications of dismissal wages as a means of controlling unemployment, it is discussed in Chapter 20, which deals with security measures against unemployment.

MAKE-WORK POLICIES

The widespread insecurity of the worker in modern industry, which was tremendously accentuated by the experiences of the depression of the 1930's, has led employees to "make work" by adopting a variety of policies. These make-work or "featherbedding" arrangements often exist among unorganized as well as organized employees, but the entrance of a union can have the effect of formalizing and strengthening them.

Restrictions on Output

Restrictions on output, direct or indirect, are the most common make-work practice. Formal restrictions are not very common in industry, although reference to them sometimes occurs in union literature or even

in collective bargaining contracts. In most cases, the restriction is based on a tacit understanding of labor. Restrictions, both formal and informal, are more usual when wage payment is by the piece than when it is by the hour or day. The reason is that workers are afraid that a "world-beater" among them will earn so much that he will force the more average employees either to quit or to work at an exhausting pace. The use of star performers as pacesetters has been common enough in industry to give credence to this fear.

Restrictions on output and other forms of make-work policies are also the result of fear on the part of employees that they will work themselves out of a job. Most employees believe that there is a given amount of work and that by stretching it out each employee will receive more. This notion is of course fallacious. If employees restrict production, the result is higher costs and higher prices, consumers buy less of the product, and in the end employment opportunities are diminished. In industries such as building construction, however, the individual worker may stretch out his immediate employment by slowing up on the job, even though the long-run effect of the slowdown may well be less work because of resultant high costs.

Limits set on output are usually enforced by social pressure rather than by union rule. True, sometimes men have been fined for getting out too much work. More often, whether the plant is unionized or not, the speed of work deemed appropriate by the majority is enforced by their refusing to engage in social relationships with other workers who "speed up." The latter, finding themselves outcasts from the groups to which they belong, are likely to conform to the "social output" very quickly.

Limits on output which are agreed to under incentive systems are often very reasonable when initiated but frequently become obsolete as machinery improves and worker efficiency rises. They are reasonable at their inception because the workers like the high earnings which often result from piecework. If, however, they become too obsolete so that earnings of a large group are affected adversely, a revolt of the rank and file may force them upward. Otherwise, if a union is in the picture, the result may be either loss of membership in the union or inability to organize nonunion shops because the lack of restrictions in the latter establishments can permit nonunion employee earnings to rise above union earnings. Since the national union leadership is likely to be more interested in organizing nonunion shops than is local union leadership, severe restrictions on output favored by locals are often vigorously opposed by national unions.

Restrictions on output may be effected by indirect methods. Thus

instead of setting a quota, the same results may be achieved by retarding speed of performance. The International Longshoremen's and Warehousemen's Union regulates the size of the sling load which is used to load ships; the Painters' Union has forbidden its members to use paint brushes larger than a specific width; and some building unions forbid the use of portable electric tools which one of the writers has found by personal experience to be not only considerably faster than hand tools but far more accurate as well.

Restrictions on output may also be achieved by excessive safety or quality controls. When the New York bus drivers want to slow down, they observe all safety regulations. The result is to put buses an average of 30 minutes behind schedule on moderately long runs. The various building-trade unions have adopted a variety of rules on quality and safety performance which often go beyond the requirements of appropriate authorities or of fire insurance underwriters. The object is quite apparently "make-work," but in addition these regulations serve as a fertile source of graft for unscrupulous business agents of building-trade unions. Many instances have occurred in which the business agent will demand that the employer pay a fine or bribe so that construction work will not be interrupted by a strike called because of a "rule" infraction.

Unnecessary Work and Unnecessary Men

Some of the most obvious featherbedding results from union requirements that unnecessary work be done, that work be done by time-consuming methods, or that unnecessary men be hired. The building, amusement, and railroad industries are characterized by a good deal of such union policies. For example, it is standard practice for the Plumber's union to require that pipes be threaded on the job even though it is far more economical to do threading in the shop. Similar policies are frequently followed by the plasterers, electricians, and carpenters in the building trades, and by the stagehands in the amusement industry. And the International Typographical Union requires that when plates or papier-mâché matrices are exchanged, as they frequently are, the matter be reset, read, and corrected within a stipulated period, and that proof be submitted to the union chairman in the office.

The employment of unneeded personnel is most closely associated with the activities of James Caesar Petrillo, president of the American Federation of Musicians. The contracts of this organization have required the employment of musicians in radio stations, theaters, and elsewhere when no artistic commercial need existed. The New York building trades created an international scandal in 1939 when they forced foreign coun-

tries, who had brought their own labor to erect their exhibitions at the New York World's Fair, to pay New York mechanics to stand by—even to the extent of requiring double time to the idle, unnecessary American workers who stood by when foreign craftsmen worked overtime. By refusing to permit workers to do jobs outside their narrowly defined duties, both railway and building unions require the employment of unnecessary personnel. And the Brotherhood of Locomotive Firemen and Enginemen has attempted with considerable success to force the employment of an extra man on diesel engines.

Make-Work Legislation

A number of laws have been passed at the prodding of special interest groups which are ostensibly in the interests of the consumer but actually go considerably beyond that. In this category are a number of building codes and railway "safety" legislation. The former frequently discriminate against prefabricated materials, even where such methods are equal to, or in many cases superior to, on-the-job construction. In addition, particularly in plumbing and electrical work, building codes stipulate that certain jobs be done by licensed mechanics and include therein work which is obviously unskilled and can be performed with no danger by the average homeowner. These codes carry on the policy of many building unions of attempting to secure as much work as possible for their crafts, even though much of it is easily performed by unskilled or semiskilled labor.

The railroad unions have expended much effort to secure "full crew" and train-length-limit legislation. The former requires a minimum crew on all trains, ostensibly in the interests of safety but quite clearly often resulting in the employment of unneeded personnel. The latter limits the number of cars which can be attached to a single train. In a series of court tests, a number of train-length laws have been declared unconstitutional.

Comments on Make-Work

Make-work rules are a wasteful method of dealing with the problems of unemployment and insecurity since they add to the cost of production and, as a result, probably often curtail total employment. In many cases, make-work provisions so raise costs that wages are lower than they might otherwise be. An excessive use of make-work rules may seriously limit a union's effectiveness, for it may cause internal dissension between those favoring limits and those favoring higher earnings. Also, as already noted, limits on work may permit nonunion earnings to ex-

ceed union ones and thus prevent a union from organizing nonunion workers who are not interested in decreased earnings.

Make-work rules do not eliminate the intermittent employment which is found in the building and amusement industries where their use is common, nor have make-work rules halted the secular decline in railway employment. Actually, by attracting more labor to an industry than is needed, make-work rules aggravate these evils.

Make-work policies present a difficult problem in terms of public policy. One method of attempted regulation is illustrated by the Taft-Hartley Act and a few similar state laws. Section 8b (6) of the Taft-Hartley Act makes it an unfair labor practice for a union "to cause or attempt to cause an employer to pay or deliver or agree to pay or deliver any money or other thing of value in the nature of an exaction, for services which are not performed or not to be performed." This clause was sometimes referred to as the "antifeatherbedding" provision, but actually its scope has been construed by the courts and the National Labor Relations Board to be much more limited than the practice of make-work rules which is ordinarily encompassed within the term "featherbedding." Although make-work rules are wasteful and costly to the public, it is doubtful whether they can be dealt with effectively by legislation. What agency, for example, is to pass judgment on how fast a man should work, or how many men should be required to operate a given machine, or at exactly what point a job requires a skilled craftsman and at what point little skill is necessary?

To be sure, extreme cases are easy to detect. Legislation, however, would have to leave extraordinary discretion to a government bureau. To do its job, that bureau would be compelled to pass judgment on a variety of labor relations matters and would thus end up regulating industrial relations to a degree which neither labor, business, nor the public would find desirable.

There is another aspect to make-work rules and public policy which cannot be ignored. That is, restriction of output on the part of labor organizations is only one type of such restriction in the economy. Many businessmen restrict output in order to keep prices high. Numerous professional societies have urged enactment of legislation which would permit only licensed personnel to pursue a profession, but the definition of the profession often goes beyond the need for professional competence. In New Jersey, the State Bar Association attempted unsuccessfully to have the negotiation of labor management contracts declared the practice of law. If the attempt had succeeded, nonmembers of the state bar would have been unable to compete with lawyers for the right to aid

labor and management unless no compensation was accepted. Farmers continually restrict production, plow under crops, and let fruit rot on the trees in order to bolster prices. Should labor restrictions be regulated and others left alone? Equality of treatment under the law would seem to require that all groups be equally affected or unaffected by legislation.

TECHNOLOGICAL CHANGE

The introduction of new machinery or methods may be beneficial to union members by easing the physical strains or improving the safety of the job or by bringing in more work and hence increasing employment. In some cases, unions have agitated for technological improvements. Thus the Brotherhood of Locomotive Firemen and Enginemen went to the Interstate Commerce Commission in order to force railroads to adopt the automatic stoker for coal-burning engines. Light, faster trucks have created more jobs for truck drivers, and larger, faster airplanes have made more jobs for pilots. There are many other such examples.

On the other hand, many technological developments affect workers adversely, at least immediately. They make the job more hazardous or more difficult, or they may reduce employment in particular plants. For example, paint spraying can cause lead poisoning; the substitution of the one-man streetcar for two-man operation certainly makes the job of the operator more difficult; and the introduction of the continuous strip mill resulted in the abandonment of many hand-rolled steel mills.

Obstruction

The adverse effects of technological change have led a number of unions at various times to oppose actively shifts in methods of production. Opposition to technological change take several forms. The most common is refusal to work with new machines. Workers can also reduce output, demand prohibitive pay, or even ask legislation in their fights against change.

Few industrial unions adopt obstruction policies, although occasionally some of their locals may do so. The reason is that the average technological development does not affect all members of an industrial union, and therefore it cannot go all out for the interests of a minority of its members. On the other hand, all members of a craft union are likely to be directly affected by an alteration in the methods of production.

In some cases, obstruction has been quite successful. This is particularly true in the building trades. Thus the plumbers have prevented the use of pipe-threading machines; the carpenters still use handsaws and

drills instead of portable power equipment; the painters have kept the paint spray off most union jobs; and nearly all the building-trades unions have restricted the amount of work which can be prefabricated or milled in the shop where heavy machinery can be utilized.

The success of the building-trades unions in opposing technological development is attributable to several factors unique to that industry.

One reason is that most of the changes opposed by these unions affect only a small part of the work done by the skilled craftsmen. The employer needs these men for other parts of the work. A second reason is that no single restriction imposed by these unions on labor-saving methods greatly increases the *total* labor cost of building. The percentage increase in the cost of performing *the particular operation* may be large, but if the operation is only a small part of the work, the effect upon total cost is small. This means that employers cannot afford to incur large expenses in order to prevent the restriction. Unfortunately, in the course of time a number of restrictions, each insisted upon and accepted because it was not important, may make an appreciable difference in cost. A third reason why building trades unions have been successful in their opposition to labor-saving methods is the fact that the areas of competition are so small that the unions are able to impose restrictions upon all employers in the area. Hence the competition of non-union employees does not compel the unions to give up their prohibitions upon labor-saving methods.⁷

In most other industries, however, opposition to technological change has been unsuccessful. Usually, the union finds that it must adapt itself to the change if it is to survive. The failure to do so is likely to encourage the rise of nonunion plants which use the newer methods. If the latter are really superior, the nonunion plants will be able to produce at less cost and thus take business away from, and reduce employment in, the union plants. At this point the union may be forced to choose between its continued existence and its opposition policy.

When a crisis is reached in a union over whether a policy of opposition should be abandoned, a divergency of interests may develop between the rank and file and the national union leadership. The former are primarily concerned with extending their skills and working life; the latter with preserving the union. The rank and file may believe that a continuation of a policy of opposition may prevent the use of techniques long enough to be worth while, but the net result may be the destruction of the union. The members of the National Window Glass Workers' Union voted to continue a strong policy of obstruction which led to the organization's demise in 1928; and the members of the Cigarmakers' International Union of America almost killed off their organization by re-

⁷ *Ibid.*, p. 214.

peatedly refusing to accept their officers' recommendation that they work on newly developed machines and admit workers who were already employed on these operations.⁸ In the same manner, a number of local unions have continued obstructionist policies, although the national union has opposed them.

Worker opposition to technological change dates back at least to the Industrial Revolution, when the textile workers of Lancashire smashed newly installed machines. "The appearance of something new, whether in the form of a new labor-saving device, a new incentive system, a new kind of supervision, or a new process, seems to sound an alert among men at work; they mount guard, as it were, suspicious in advance that the change bodes them no good. The problem that emerges becomes particularly baffling when time and time again it appears immaterial whether an innovation affects the workers adversely or not. Indeed, even when it promises them substantial benefit, they still may pull and haul and balk."⁹

Union policies of obstruction are basically reflections of workers' fears that changes will affect them adversely. The union acts to solidify the obstruction or to fight it, but not to create it. Moreover, in many instances, union obstruction has served a good purpose. Opposition of the streetcar motormen to the one-man car led to the invention of the safety-door brake; and the granite cutters performed a public service by restricting the use of the hand surfacer, "an extreme health hazard."¹⁰

Perhaps, even more important than forcing improvements in machines, union obstruction policies have compelled industry to consider human costs in introducing new methods. Abandoning a plant or eliminating a skill causes tremendous hardship to those affected. By slowing the process, or forcing management to make concessions, union obstruction to technological change has reduced the number of employees rendered temporarily useless by progress.

On the other hand, there are cases, particularly in the building trades, where union obstruction policies have increased consumer costs without apparent benefit to the community.

Competition

If a union finds that a policy of obstruction is failing (usually because nonunion shops are utilizing the new technique and causing un-

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⁹ B. M. Selekmán, *Labor Relations and Human Relations* (New York: McGraw-Hill Book Co., Inc., 1947), p. 111.

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employment in the union shops), it may attempt to compete with the new method. This takes the form of wage or working rule concessions to employers who retain the old techniques, or in rare instances, of the formation of co-operatives by displaced employees who seek to maintain old methods of operation.

Essentially the policy of competition is a short-run device adopted for the purpose of slowing the advancement of new techniques and preserving the working lives of employees who would otherwise be displaced. If the new technique is sufficiently superior, wage and working rule concessions are not likely to halt its introduction. Nor can co-operative plants producing by less efficient methods hope to compete permanently with more modern plants.

A policy of competition, nevertheless, is not without social benefit. By providing temporary employment for workers who might otherwise be unemployed, it mitigates the hardships of change. Moreover, as in the case of obstruction policies, competition forces improvement in new machines, which are often crude when first introduced, and therefore a policy of competition can result in the reduction of costs and of prices.

Control

In most cases, opposition to technological advancement and union attempts to compete with new techniques are temporary measures. Sooner or later the union members must decide whether they want the union to survive. If they do, they must work out an agreement with management which permits use of the new invention. In short, the union must adopt a policy which gives it some control over working conditions which develop under the new technique.

The policy of control may take many forms. When linotype machines were first introduced, the International Typographical Union successfully insisted that compositors be trained to operate the new machines. In the steel industry, the union has insisted that some of the benefits of machinery go directly to the workers. This has been used as a talking point in wage negotiations and also to implement union arguments that men laid off as a result of new techniques should be given the first opportunity for new job openings. In other cases, unions have negotiated dismissal compensation for men laid off. This tends to lessen rank-and-file opposition to a policy of control. A final method of control is for the union to negotiate high wage rates which slow down the introduction of the new technique with the result that the effect on the working force is lessened.

The willingness of a union to adopt a policy of control depends on

peatedly refusing to accept their officers' recommendation that they work on newly developed machines and admit workers who were already employed on these operations.⁸ In the same manner, a number of local unions have continued obstructionist policies, although the national union has opposed them.

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The willingness of a union to adopt a policy of control depends on

a variety of factors. Industrial unions are more likely to favor control policies than are craft unions because a new technique often helps one part of the industrial union membership even though it hurts another part. Moreover, craft unions may be unwilling or unable to organize employees operating the new machines, or their members may be unwilling to learn new techniques or to work on new machines. We already noted that refusal to operate the new machines, or to admit the workers that did, led to the dissolution of the Window Glass Workers' Union and the near collapse of the Cigarmakers' International Union of America.

Of special importance also is the existing state of product competition. The granite cutters accepted saws and surfacing machines, if operated by union members, as an aid in competing with the softer stone market. The street railwaymen, after some obstruction, adopted the control technique for the one-man car and the bus in order to meet private automobile competition. Pottery workers have accepted various machines as aids against foreign and glassware competition; and the list could be extended.

The competition of nonunion plants has been very important. The American Federation of Hosiery Workers have not only accepted but have actually promoted the introduction of new machinery because of the nonunion competition in the South. The Textile Workers' Union have a similar problem in the nonunion cotton mills and also have pursued a policy of control.

The vast number of technological improvements which have been introduced and their initial ill effect on workers raise the question of why more unions did not adopt policies of obstruction rather than of control. The main reason appears to be that most inventions are introduced in times of prosperity and full employment and indeed contribute to the prosperity, as will be fully explained in Chapter 12. In such times, re-employment of displaced men is more easily effected, and opposition to new techniques is consequently lessened.

Automation

Technological development since World War II has moved along three basic lines which are sufficiently different to merit separate discussion. These developments, termed "automation," can be divided into three fundamental groups:¹¹

¹¹ G. B. Baldwin and G. P. Shultz. "Automation: A New Dimension to Old Problems," *Proceedings* (Industrial Relations Research Association, 1954), pp. 114-28.

1. The integration of conventionally separate manufacturing operations into lines of continuous production untouched by human hands by means of mechanical engineering techniques.
2. The use of "feedback" control devices or servomechanisms which permit individual operations to be performed, tested and/or inspected, and controlled without human control by means of electrical engineering or electronic techniques.
3. The development of computing machines which can record and store information and perform complex mathematical operations on such information largely by means of electrical engineering developments.

The effect of automation on labor utilization has been, and is potentially even more, spectacular. Labor displacement can be severe. On the other hand, the demand for men skilled in advanced technologies has already sharply increased. Undoubtedly other changes are in store.

This has led unions to increase their pressure for shorter hours.¹² Many union spokesmen have voiced fear of technological displacement. The actual union reaction, however, in concrete terms has been mainly to continue pressure for higher wages.

Modern automation has occurred since World War II, a period of high employment. Nearly all labor displacement has been readily absorbed in the expanding economy. Labor's attitude toward automation will, of course, be influenced in part by the extent to which we can maintain an expanding economy and full employment in the future. On the whole, however, it seems unlikely that union attitudes toward automation will differ from union policies adopted with respect to important technological developments in the past. It is significant to note that one of the major fields for application of automation and one in which the displacement of labor is likely to be greatest is the office where nonunion female clerical workers predominate.

QUESTIONS FOR DISCUSSION

1. What is meant by closed shop, union shop, maintenance of membership, and open shop? Discuss the relative advantages and disadvantages of each from the point of view of employer, employee, and union official.
2. Discuss the various ways in which unions control entrance into a trade. What are the circumstances which give rise to such restrictive policies?
3. Discuss the relative merits and disadvantages of seniority provisions. Under what circumstances is seniority preferable to equal division of work?

¹² See Chapter 18.

SUGGESTIONS FOR FURTHER READING

"Automation, Productivity and Industrial Relations," *Annual Proceedings*, pp. 114-51. Industrial Relations Research Association, 1954.

Analysis by five authorities of practical and human problems in automating office and factory.

SLICHTER, S. H. *Union Policies and Industrial Management*, chaps. ii-ix, pp. 9-279. Washington, D.C.: Brookings Institution, 1941.

The standard work on the subject.

Chapter 7

MULTIUNIT BARGAINING, STRIKES, AND THE LABOR MONOPOLY ISSUE

In this chapter we continue our discussion of collective bargaining practices, taking up three of the most controversial issues—multiunit bargaining (often called industry-wide bargaining), strikes, and the question of whether unions are monopolies.

MULTIUNIT BARGAINING

Multiunit bargaining is simply a term used to denote a collective bargaining arrangement which covers more than one plant. Multiunit bargaining may take many forms. One such form occurs when a single management controls two or more plants which are organized by a single national union. Negotiations between the United Automobile Workers and the General Motors Corporation or between the United Steelworkers and the United States Steel Corporation are two of the best-known examples of this type of bargaining. Both negotiations are between one management and one union, but they each establish basic wages and employment conditions for many separate plants throughout the country. Moreover, the settlements reached in these bargaining conferences provide the key wage bargains for the economy.

A second type of multiunit collective bargaining—and the type around which most discussion has centered—involves bargaining between one or more national unions and a representative of two or more managements in a single industry. For discussion purposes, such bargaining is usually subdivided on a geographical basis into local, regional, and national types. Local multiunit bargaining is by far the most common. It occurs in service industries of many kinds, building construction, amusements, retail stores, clothing, and many other industries in which the competitive market is predominately local.

Among the industries in which regional multiunit bargaining is common are pulp and paper, lumber, nonferrous metal mining, maritime

and longshore work, over-the-road trucking, textiles, and shipbuilding.

The third geographic subdivision of multiunit bargaining between one or more trade-unions and two or more employers is national collective bargaining. Such bargaining is frequently termed "industry-wide" bargaining, but the latter term is inaccurate in most cases. For example, the national agreement between the Stove Manufacturers Protective and Development Association and the International Molders and Foundry Workers' Union now covers less than 20 per cent of the stove industry. Even the widely known United Mine Workers' bituminous coal industry negotiations or the bargaining in the railroad industry, each of which is national in scope and very inclusive, are not actually completely industry-wide.

National collective bargaining is, itself, divisible into two groups. In the first type, a sizable segment of an industry throughout the country bargains with a national union or unions. The gradual extension prior to World War I of bituminous coal bargaining from local areas to districts and hence to region-wide agreements, climaxed by the "central competitive field" agreements covering mainly Pennsylvania, Ohio, Indiana, and Illinois, the disintegration of this system in the 1920's because the unionized mines could not compete with the nonunion southern mines, and finally the rise of national bargaining after 1934 affords the most vivid and well-known example of this development.

Railroad history provides another example. Single railway system bargaining developed, under the impetus of union "concerted movements," into regional conferences; then, during World War I, when the federal government took over the railroads, national bargaining was adopted. It relapsed into regional bargaining in the early 1920's, but national bargaining was again revived by the railroads in 1931 for the purpose of securing nation-wide decreases. Since then, national bargaining has continued.

The railroad and bituminous coal situations have one significant difference which derives from the structure of their respective unions. Bituminous coal deals with one industrial union. Its negotiations settle matters for all employees at one time. Railroads deal with twenty-odd craft unions. On most occasions the railroad unions have split into two, three, or four groups. National conferences are held with each group by the carriers. A settlement with one group must be made with the demands of the others in mind, thus greatly complicating bargaining.

Quite different from either the bituminous coal or railroad situations, where most workers in an industry are involved in the national bargaining, is the second type of national multiunit bargaining. Instances

of this are found in the wire weaving, tile laying, sprinkler installation, elevator installation and repair, and wallpaper crafts. Here only one craft of workers in an industry is involved, but the bargaining is nevertheless national in scope. A small, well-organized craft, desirous of maintaining its standards throughout the country, and an important industry segment providing nationally used products and/or services participate in these multiunit bargaining arrangements.

The final type of multiunit collective bargaining cuts across industry lines. In such cases, bargaining occurs between an employer association, or division thereof, representing numerous industries and the union or unions holding bargaining rights for the workers in these industries. Bargaining of this type has developed most fully in the San Francisco metropolitan area and has spread to several other western cities and to the Territory of Hawaii. In San Francisco, the aggressiveness and scarcity of labor led employers to organize and bargain on an industry-wide basis as early as the "Gold Rush" days, but modern master agreements date from the union drives of 1934. Then the use of "whipsaw" tactics by unions—picking off employers one at a time in order to raise wages—led to the formation of the San Francisco Employers Council in 1938. Today the council supervises all negotiations for its members.

The Hawaiian development is modeled to a large extent on the San Francisco experience. The facts that the most important union in Hawaii is the left-wing International Longshoremen's and Warehousemen's Union with which the San Francisco council deals and that industry on Hawaii is dominated by five major concerns have both influenced the growth of territorial bargaining in Hawaii.

The Extent of Multiunit Collective Bargaining

Table 13 summarizes the findings of a survey as to the extent of multiunit collective bargaining. Because of the variations within industries, it has been necessary to include some industries under more than one heading.

In the left-hand column titled "single company" are listed industries in which exist significant numbers of companies having several plants which deal on a company-wide basis with unions. These industries are mostly the so-called "heavy" or "basic" industries, characterized by large investments, mass production, and a small number of large multiplant companies.

The three center columns are devoted to multicompany, multiunit bargaining. It will be noted that in only a few industries does national collective bargaining exist.

TABLE 13

EXTENT OF MULTIUNIT COLLECTIVE BARGAINING

SINGLE COMPANY	MULTICOMPANY			MULTI-INDUSTRY
	National	Regional	Local Area	
Automobile	Anthracite	Fishing	Building construction	San Francisco
Iron and steel	coal	Canning and pre-	Building materials	Tacoma
(basic)	Bituminous	serving foods	Longshoremen	Reno
Electrical supplies	coal	Lumber	Trucking (local	Sacramento
and equipment	Railroads	Pulp and paper	delivery)	Los Angeles
Farm equipment	Pottery	Agricultural grow-	Warehousing	Phoenix
Office equipment	Flat glass	ing and har-	Amusements and	Denver
Rubber	Pressed and	vesting	theaters	Hawaii
Meat packing	blown	Clay sewer pipe	Hotels and	
Rayon textiles	glass	Cement	restaurants	
Shipbuilding	Glass con-	Maritime (all	Laundries	
Woolen textiles	tainers	classes)	Cleaning and dyeing	
Nonferrous metal	Wire weav-	Seamen	service	
manufacturing	ing	Longshoremen	Building service	
Tobacco	Wallpaper	Trucking (over	Retail stores	
(cigarettes)	Tile laying	the road)	Department stores	
	Sprinkler	Nonferrous metal	Charitable organ-	
	fitter in-	mining	izations	
	stallation	Nonferrous metal	Radio parts assembly	
	Elevator in-	and product	Metal job shops	
	stallation	manufacturing	Machine	
	and repair	(except jewelry	Tool and die	
	Men's and	and silverware)	Pattern	
	boys'	Furniture	Foundry	
	clothes	Motion-picture	Steel products	
	Work clothes	production	(non-basic)	
	Stoves	Hosiery	Jewelry and	
		Cotton textiles	silverware	
		Woolen textiles	Newspaper printing	
		Dyeing and fin-	Book and job printing	
		ishing textiles	Women's clothes	
		Shipbuilding	Millinery	
		Cotton garments	Fur	
		Leather (tanned,	Leather products	
		curried, and	and gloves	
		finished)	Shoes	
		Shoes	Confectionery	
			products	
			Meat packing	
			Dairy products	
			Baked goods	
			Malt liquors	
			Beverages (non-	
			alcoholic)	
			Tobacco (cigars)	
			Furniture	
			Knit goods	
			Silk and rayon	
			textiles	
			Paper products	
			(boxes, etc.)	
			Garage main-	
			tenance men	

Local multiunit bargaining embraces by far the greatest number of industries. Multi-industry bargaining, as in San Francisco, is confined to western areas and Hawaii.

From this table, it is clear that multiunit bargaining in the United States embraces an enormous portion of American industry.

Reason for Development of Multiunit Collective Bargaining

The reasons for the development of the various types of multiunit collective bargaining vary from industry to industry. Sometimes the union is responsible for initiating such bargaining. In other cases the employers take the initiative. A poll by *Executive's Labor Letter* covering 800 manufacturing plants which subscribed to the *Letter* found that 58 per cent of negotiations leading to existing multiunit agreements were initiated at the request of unions, 34 per cent at the request of management, and 8 per cent by mutual agreement.¹ Since this survey did not include samplings of the building construction, service, or transportation industries, in all of which management initiative and preference have been strong factors in encouraging multiunit bargaining, it is likely that the proportion of multiunit agreements initiated by management and the proportion initiated by unions are not far apart.

Equalizing wage costs has been an important reason why unions have supported multiunit collective bargaining in such industries as railroads, the needle trades, and bituminous coal. In the railroads, for example, the brotherhoods found that the individual railroads were using the competition of other lines as a reason for objecting to wage increases. They, therefore, initiated the so-called "concerted movements" by which they made identical demands on all the railroads in a region. Later this regional bargaining expanded to national bargaining, first during World War I when the government acted as the railroads' sole owner, and then later in 1931 when the railroads revived it in order to get wage reductions throughout the country.

Likewise, in local trades and service industries Kerr and Fisher found that in San Francisco wage rates tend to be uniform when the industry is covered by a master agreement and diverse when it is not.²

In the needle trades, wages are the most important cost factor. Both the unions and the employers discovered at an early time that unionism could not exist unless it equalized wage costs. This resulted in market-

¹ *Executive's Labor Letter*, May 13, 1947, p. 3.

² Clark Kerr and Lloyd H. Fisher, "Multi-employer Bargaining—the San Francisco Experience," in R. A. Lester and J. Shister (eds.), *Insights into Labor Issues* (New York: Macmillan Co., 1948).

wide bargaining in the various branches of the industry; since most markets are local in scope, bargaining is local in scope. The exceptions are the men's clothing industry which has expanded into a national bargaining situation, and the work clothes industries where the union label has induced various manufacturers throughout the country to enter negotiations with the United Garment Workers.

The equalization of competition has played an important role in the development of multiunit collective bargaining in lumber, pulp and paper, pottery, and the various branches of the glass industry. In some of these industries initiation came from the employers' side. In such industries as electronic manufacturing, the metal jobbing shops of various types, book and job printing, as well as others, the pattern is similar to that in the garment trades. Wages are a significant if not the most significant cost item, the plant labor force is small, and the degree of competition high. All these factors tend toward the development of multiunit collective bargaining once the workers become unionized.

In industries in which an employee typically works for more than one employer, multiunit collective bargaining is virtually essential for both employer and union. These industries include the maritime trades, the building trades, and the needle trades. In such industries failure to equalize wages and working conditions would have the effect of permitting some employers to pay less wages to workers who also work for other employers paying higher wages. From the union point of view this is an intolerable situation, and it is equally so from the employer's viewpoint. For example, in the building industry the low-wage employer would be able to outbid high-wage competitors and solely because the union allowed him a favorable rate. This would injure the union's relations with the employees of the latter. Hence the only solution from the point of view of both employer and union is multiunit bargaining over the extent of the market.

Another reason why both unions and employers prefer multiunit bargaining is that it eases contract enforcement. From the union point of view this is very important in such industries as building or trucking or in any others where the number of employees is small and the employees bear a very close personal relation to their employers. There is a tendency in such industries, particularly when work is slack, for the employer to ask, and often to receive, wage concessions from his workers and to keep the concessions secret from the union. This enables the employer to get more work at the expense of his competitors. It also, however, takes business from the more contract-conscious competitors and threatens the entire union wage structure. Under a multiunit arrangement such local deals

are more difficult, especially since most arrangements contain explicit provisions providing for severe penalties for any deals or kickbacks.

In nearly every case in which multiunit collective bargaining has been tried, ease of negotiations has been a result, if not a factor, in bringing it about. Again, particularly in those industries like the building trades where there are scores of small employers, many craft unions, and, therefore, many contracts, the dismal prospect of spending the bulk of one's time negotiating is a powerful spur toward multiunit collective bargaining.

Also in the case of small companies, particularly on the industry side, it has been found that multiunit collective bargaining affords a method by which more highly skilled personnel and greater aid can be brought to bear in collective bargaining. Small printing, metal jobbing, or garment plants do not have the funds to employ high-caliber industrial relations specialists. Through an association they can accomplish this and frequently form one for precisely that reason.

One of the significant advantages which unions secure from multi-unit bargaining is protection against "raiding" from rivals. Kerr and Fisher thus describe the situation:

The National Labor Relations Board is charged with the responsibility for determining the appropriate unit for bargaining purposes and this determines the universe within which the employees vote to select their agent. . . . A history of bargaining with an employers' association with authority to bind its members . . . is a virtual guarantee that the National Labor Relations Board will designate the multi-plant group as the appropriate unit. This is powerful protection against the incursion of a raiding competitor. When, as in a number of master agreements in the San Francisco area, the bargaining unit consists of in excess of one hundred plants, the task of organization for the rival union is virtually insuperable. It requires simultaneous organizing effort over an area much broader than the ordinary trade union can manage in order to show a majority of the employees of all the plant units voting for new representation.³

Employers, as well as unions, favorably regard protection against rival unions afforded by multiunit bargaining. The advantage to employers derives from the stability of relations and frequent moderation on the part of unions which feel sufficiently secure against rivals to display economic statesmanship.

In the instances in which a highly skilled craft has bargained on a national or multiunit basis, such as the wallpaper craftsmen or wire weavers, the main impetus appears to derive from the desire of the union to maintain its high standards throughout the market. Because the total

³ *Ibid.*, p. 39.

cost of the particular craft in comparison with the total wage bill in a given instance is likely to be small and because the unions in such instances have a monopoly of the labor supply, employers do not generally oppose such multiunit bargaining. Moreover employers sometimes even encourage it, because it assures them a supply of competent skilled labor.

One of the most important reasons why employers have initiated or defended multiunit bargaining is the protection it gives them against loss from strikes. In industries such as transportation, building construction, amusements, services, or occasionally retail trade, a strike can result in a loss of business which is never regained because the company deals in a perishable good or service. If the union can pick off employers of such industries one at a time, employers are, more often than not, helpless to prevent the union from achieving even the most outrageous demands. On the other hand, by forming a common front the union power is blunted because a strike means a strike of the entire industry. This in turn results in a serious loss of employment to all union members, and, perhaps even more important, no employer benefits from the loss of business of an employer who is struck. The logical development of such a situation has occurred in the West Coast maritime industry where strikes have been answered either by industry-wide lockouts or by the payment of benefits to struck concerns. Even the mass production industries are seriously considering such a move. In 1956 and 1957, officials of the large automobile companies gave serious consideration to multiunit bargaining as a means of withstanding the demands of the Auto Workers' Union.

In lumber, pulp and paper, and other operations where recruitment of labor is often a serious problem, multiunit bargaining stabilizes wages and prevents workers from bidding one employer against another. In such industries, employers often favor multiunit bargaining for this reason.

Sometimes the development of multiunit bargaining is encouraged by top union officials for the reason that it is likely to increase their control over union affairs or at the very least to enhance their position within the union. The wider the bargaining unit the more important that the bargaining be conducted by the national officials. Hence the tendency toward wider bargaining units is also a tendency toward greater national control in the unions.

Occasionally multiunit bargaining results more or less by accident. Industries, for example, which have dealt for many years under multiunit bargaining arrangements with the Teamsters' Union tend also to conduct their relations with other employee groups on that basis. The bakery industry and the milk distribution industry are good examples.

The accident of location is also important. Multiunit bargaining is

more common on the Pacific Coast than in any other area in the United States. The importance of the maritime and lumber industries and the historical shortage of labor in that area have probably been important factors. But the development of a city-wide multiunit system in San Francisco has encouraged a similar development in other West Coast cities and in Hawaii, which probably would not have occurred had those cities not been so close to San Francisco.

Multiunit Bargaining as a Problem

The basic public interest in multiunit bargaining arises out of the effect of a work stoppage and of a wage increase. A strike, which shuts down either a whole industry or a major portion thereof, causes serious public inconvenience. A wage increase which is achieved by a large number of workers under conditions which insure widespread publicity, such as when the Steelworkers' Union bargains with United States Steel, can result in public dissatisfaction with the large multiunit strike, and with the wage bargain. Such settlements, particularly when effectuated by use of the strike weapon on a large scale, give rise to charges of union monopoly, as discussed later in this chapter.

STRIKES

To many Americans, the strike epitomizes the union. Headlines are made in industrial disputes. They are the sensational aspects of union policies and managerial counterpolicies. Yet strikes are surprisingly few in comparison either to man-days worked or the number of collective agreements negotiated. (See Table 14.) For example, the average annual numbers of man-days lost in the United States because of strikes during 1935-39 was 16,900,000, or 0.27 per cent of the total annual estimated working time. In 1946, the worst strike year in our history, total man-days lost were 116,000,000, or 1.43 per cent of the annual estimated working time.⁴ Almost every hour while these strikes occurred, a collective agreement was peacefully negotiated by a union and a company. Professor Sumner Slichter estimates that in most years prior to World War II roughly four out of every five union contracts coming up for renegotiation were settled without strike or walkout. In 1946 the proportion peaceably settled was about three out of every four.⁵

Although union membership almost quadrupled between 1919 and

⁴ See strike data from U.S. Bureau of Labor Statistics.

⁵ S. H. Slichter, *The Challenge of Industrial Relations* (Ithaca, N.Y.: Cornell University Press, 1947), p. 124.

1946, the proportion of employed workers involved in work stoppages was lower after World War II than after World War I. At the same time, there has been a significant decline in the ratio of strikes to total union membership. This decline becomes apparent if we compare statistics for 1919 and 1946, two of the worst strike years in our history. In 1919 the number of workers involved in strikes actually exceeded the number of union members, whereas in 1946 workers on strike numbered less than a third of total union membership.

TABLE 14
STRIKES AND LOCKOUTS IN THE UNITED STATES, SELECTED YEARS, 1917-56

Year	Number of Stoppages	Number of Workers Involved (Thousands)	Man-Days Idle (Million Days)	Percentage of Working Time Lost
1917.....	4450	1227	(*)	(*)
1919....	3630	4160	(*)	(*)
1921. ...	2385	1099	(*)	(*)
1925.....	1301	428	(*)	(*)
1929.....	921	289	5.4	0.07
1933 ..	1695	1168	16.9	0.36
1937 ..	4740	1860	28.4	0.43
1941 ..	4288	2363	23.0	0.32
1944 ..	4956	2116	8.7	0.09
1946.....	4985	4600	116.0	1.43
1947	3693	2170	34.6	0.41
1950.....	4843	2410	38.8	0.44
1952.....	5117	3540	59.1	0.57
1956	3825	1900	33.1	0.29

*Data unavailable.

SOURCE: U.S. Bureau of Labor Statistics.

In the last few years there has been a reduction in the number of strikes as well as in the amount of time lost by strikes. This is in part a reflection of the increasing use of long-term contracts with automatic wage adjustments during the term so that conflicts on wages and other issues can result in strikes only at intervals of from 2 to 5 years. The reduction of strikes may also reflect a disinclination on the part of management to undergo a major interruption of production when higher wage costs can be passed along in higher prices as part of the general inflationary spiral. However, it is noteworthy that in earlier years strikes occurred more frequently in times of rising prices than in times of falling prices and business depression. A seasonal trend in strikes is also observable. Strikes most commonly occur between March and August when the majority of union contracts come up for renegotiation. Workers are un-

derstandably more willing to take an enforced layoff during the summer than during the winter.

Despite their relative numerical unimportance, strikes have a vital effect on the economy. A strike in a key motor parts plant can and has shut down a large segment of the automobile industry which depends upon that plant to supply certain parts. A strike of a few tugboat operators almost caused New York City to cease operating. These are matters of vital public concern and are discussed as such in Part VII. These problems also raise the question of why strikes arise out of labor-management disputes.

Classification of Work Stoppages

Strikes may be classified in three general categories: (1) economic strikes concerning wages, hours, and working conditions; (2) strikes to eliminate unfair labor practices by employers; and (3) strikes involving conflicts between unions.

The first category—the “bread-and-butter” type of strike—has consistently been the major type of strike in this country except during the period from 1934 to 1951 when the great upsurge of union organizing effort pushed to the forefront the second category of strikes. Wages are the most usual, but by no means the only, reason for economic strikes. In recent years, for example, there have been strikes over the following kinds of issues:

Relocation of plant—Hatters Union vs. American Hat Co.

Duration of contract—International Union of Electrical Workers vs. Westinghouse

Funding of pension plan—United Automobile Workers vs. Chrysler

Arbitration of all grievances—Communications Workers Association vs. Southern Bell Telephone Co.

Elimination of craft—Flight Engineers vs. United Airlines

Union security—United Steelworkers vs. steel industry⁶

Strikes of the second category are intended to eliminate an unfair labor practice by an employer, such as refusal to bargain or discrimination for union activity. Organization strikes, which also fall in this category, have become relatively unimportant in recent years as a result of the high percentage of organization already achieved in industry, the consequent retardation in the rate of growth of unions, and the existence of peaceful methods of determination of a collective bargaining representative under state and federal law.

⁶ Jack Barbash, *The Practice of Unionism* (New York: Harper & Bros., 1956), p. 215.

The third class of strikes is a result of union rivalries over jobs and membership. It includes the jurisdictional strike which involves a contest between unions as to which group of workers will perform a specified piece of work. It also includes the rival union organization strike in which rival unions seek to compel the employer to recognize the one rather than the other as the exclusive bargaining agent for certain or all of his employees. In recent years leaders of organized labor have come to recognize that strikes of this third class can do great damage to labor in the eyes of the public. A number of unions have therefore taken steps to minimize stoppages which result from the outflaring of union rivalries. A board has been established in the construction industry to settle conflicting claims of jurisdiction among construction-trades unions and a number of constituent unions of AFL-CIO have signed a no-raiding pledge designed to lessen strikes resulting from attempts of one union to gain members at the expense of another established union. Neither of these efforts has been wholly successful. The Taft-Hartley Act, passed by Congress in 1947, forbids strikes aimed at compelling an employer to bargain with one union where another union has been certified by the National Labor Relations Board as the proper representative of the employees. Jurisdictional and rival union strikes will undoubtedly continue to inconvenience the public from time to time, but in terms of number of strikes they are relatively unimportant. Since 1942, jurisdictional and rival union strikes have aggregated less than 6 per cent of all strikes from labor-management disputes each year.⁷

Strikes are usually classed in terms of union demands or objectives, but this does not mean that all strikes are the "fault" of the unions. Some strikes probably can be more properly classed as management lockouts. Suppose, for example, that the steelworkers, through negotiations with the steel companies, have obtained wage increases of 15 cents an hour. The automobile workers now make similar demands on the automobile companies, and the management in that industry refuses to give more than 5 cents an hour. On these facts, such an attitude by employers would, in fact, amount to an invitation by management to the union to strike. Union leaders could hardly accept such a settlement and hope to retain the loyalty of the union membership. However, although management refusal to bargain prompted the strike, the actual decision to strike would be made by the union. Consequently, the strike would be classed as an economic walkout, even though it would be a truer description of the facts to call it a management lockout.

⁷ Data from monthly reports of Bureau of Labor Statistics.

Noneconomic Factors in Strikes

There have been a number of attempts to state a theory of industrial disputes in terms of pure economic calculation. The assumption is that pure economic calculation is utilized by the parties to determine whether a strike would be advisable. If the parties correctly determine each other's propensity to resist and to concede at given wage rates and strike-length periods, then according to such analyses, they will come to an agreement without a strike at the precise point beyond which neither would concede farther without a strike.

The main fault with this analysis is that it does not go far enough. The decision whether to strike for higher wages or to accept a peaceful settlement at a lower rate does, in fact, depend to a considerable extent on the parties' estimates of the relative resistance or concessions which they can expect of the other. But, in addition, such a decision is also influenced by many noneconomic considerations which in some circumstances may make a strike for an additional cent an hour necessary, even though it is unsound on a purely economic basis.

The union is not a pure economic unit; it is a body politic. Its first consideration must be its own survival. This basic fact overshadows and influences its strategy in industrial disputes. David Dubinsky, president of the International Ladies Garment Workers' Union, has observed that a union in the formative stage may derive more benefit from a wage increase of 50 cents a day after a strike than it would from a wage increase of 1 dollar without a strike. The union leaders may need the rallying power of a strike to solidify the sentiment of the membership and to consolidate their own control.

But even after a union has gained recognition and power, many strikes are called which do not make "sense" from the economic point of view. Even a strong union must contend with internal factionalism and the threat of rival unions attracting membership. In such circumstances the decision of union leaders to strike may be made with an eye to what is best calculated to retain or acquire power in the face of rival leadership. Walter Reuther of the United Automobile Workers, faced with factionalism within his union, must always be on guard against possible attack that he is getting soft with employers or that the leaders of the Mine-Workers or Steelworkers are doing a better job for their membership. Describing the situation in the meat-packing industry at a time when three unions were battling for membership, one writer says: "Any wage settlement is subjected to scorn and ridicule in the periodicals and pamphlets of opposing unions; the advantages of the settlement are mini-

mized; the leaders are excoriated as piecards, Commies, or company stooges; the membership is commiserated for having been sold down the river."⁸ It is understandable why in such situations a union leader may frequently make the decision to strike even though in terms of dollars and cents he believes that the union could fare better through a negotiated settlement.

Work stoppages may also result from noneconomic preferences of employers. The Republic Steel Corporation spent an estimated \$12 million in a vain attempt to prevent the United Steelworkers from organizing its plants. This money was sheer waste, as the United States Steel Corporation demonstrated by recognizing the union without a stoppage or the purchase of tear gas and machine guns or the loss of production, all of which gained Republic nothing. The willingness of employers to accept strikes rather than violate "principles" cannot be measured on an economic calculation chart.

Whatever the cause of strikes, the computation of their costs in terms of lost wages or production is not simple. In some industries which produce a perishable or nonreproducible product or service—such as the amusement trades, passenger transportation, and newspaper publishing—business lost can rarely be regained, and therefore the cost of the strike will bear a close relationship to the revenues and wages lost during the duration of the walkout. On the other hand, in other industries, time lost by strikes may be made up during the year. Most coal strikes, for example, have not caused miners to lose more working time during an average year than they would otherwise lose from overcapacity in the industry. The average number of days worked per miner per year remains approximately the same in heavy strike years as in years of labor peace. Although this is an extreme case, the situation is somewhat comparable in all industries which produce a storable or postponable product, i.e., a product which if not produced and sold today can nonetheless be produced and sold tomorrow.

This illustrates the point that the "real" cost of strikes is higher in times of full employment than in periods of less than full employment. For in the latter periods a strike may only determine when idleness, which would occur anyway, will take place.

Strike Tactics

Unions attempt to time a strike so that it will put the greatest pressure on the employer to settle. For this reason, union negotiators attempt

⁸ A. M. Ross, "The Trade Union as a Wage-Fixing Institution," *American Economic Review*, Vol. XXXVII (1947), p. 585.

to have the term of a collective bargaining agreement end in the employer's busiest season. Employers, of course, prefer to have contract negotiations and any strike action fall in their slack season.

Generally a strike is preceded by a formal strike vote adopted by the union membership at a meeting at which the last offer of the employer is presented. Occasionally the membership does not go along with the union leadership and votes to return to work, but generally most union members support their leadership on a strike vote because they view the vote as a tactical move which psychologically strengthens the hand of their representatives in dealing with the employer.

Strikes sometimes develop without any preliminary formal action. Such unpremeditated walkouts, usually called "wildcat" or "quickie" strikes, are generally of short duration and are a way in which workers let off steam as a result of tensions and grievances which build up in modern industry. In some situations, however, frequent "spontaneous" walkouts of a few hours' duration may be part of a plan by the union leadership to gain concessions from management during the term of the contract without technically violating a no-strike pledge contained in the contract.

The principal union weapon, once a strike has been called, is the picket line. This consists of one or more persons walking back and forth in front of a plant or business to call attention to the existence of a labor dispute. The purpose of the picket line is to make the union walkout effective by preventing employees from entering the struck establishment. During the thirties, when unions were battling antiunion employers for recognition, mass picketing was common and violence and bloodshed often resulted from attempts by strike breakers to cross the picket line. In this environment, where employers fought the walkout by attempting to bring in nonstriking workers or strikebreakers, the picket line was the embodiment of possible physical violence which might be inflicted on any employees who attempted to cross the line to help the employer resume production. Prior to the commencement of World War II, virtually no labor strike in the United States which lasted more than 2 weeks came to an end without some violence. Even during World War II, some strikes were characterized by battles on the picket line.

The year 1946, however, marked a profound change in the attitude of American management toward the strike. In that year there were more strikes than in any previous year in American history, but with the exception of a few local situations there was little or no violence or destruction of property. Employers responded to the strike call by padlocking their plants. Since they did not attempt to operate, there was no need to bring

in strikebreakers, and therefore the major source of violence and bloodshed was removed. The strike was thus transformed from a private battleground to a siege. The question now was simply who would last longer, the employer or the striking employees.

Picketing is still a major union strike tactic, but today it can be done effectively by a handful of employees. It has become the symbolic expression of the strike. While the overtones of possible physical violence are less obvious than in the past, the picket line is extremely effective today because unions have been able to indoctrinate their members with the conviction that to cross a picket line is an offense so odious as to result in social ostracism. Since the Teamsters' Union controls the bulk of deliveries to and from business establishments, refusal by members of this union to cross picket lines is another reason most employers today simply shut down operations during a strike.

Large powerful unions in the mass-production industries have demonstrated their ability to hold their members in line during long protracted strikes without defection. Examples are the 113-day strike at General Motors during 1945-46, the 103-day strike at Chrysler in 1950 by the United Automobile Workers, and the 65-day strike in the steel industry by United Steelworkers. Most unions pay strike benefits, and the larger international unions are capable of building up tremendous strike funds. For example, in April, 1955, the United Automobile Workers increased regular local dues to \$5 a month in order to raise a guaranteed annual wage strike fund of \$25 million. Little wonder that in the face of such financial power, many employers are turning to the federal government to regulate "union monopoly."

UNIONS AND MONOPOLY POWER

Are unions monopolies? The growing strength of organized labor and the power of unions to paralyze large segments of our economy through strikes have led many writers and statesmen to ponder whether restrictive measures are not necessary in order to prevent unions from destroying or seriously impairing the free enterprise system in this country. Persons dealing with this problem frequently justify their recommendation for action by labeling unions as monopolies. In some cases their concern is with the supposed harmful *results* of union bargaining power, in other cases with the *power* of unions, whether or not in fact exercised, to harm the general public. Some critics of unions assail the strike as the aspect of unionism most inimicable to the public welfare; others attack industry-wide bargaining or the power of exclusive represen-

tation-granted unions which are certified as bargaining agents under the National Labor Relations Act. One thing emerges clearly from the epithet hurling and name calling—there is a need for a re-examination of the whole question of whether or not unions are monopolies and, if so, whether or not unions wield monopoly power which is detrimental to the public welfare.

Aspects of Union Monopoly Power

There are certain ways in which it might be said that unions act like a monopoly:

1. In economic theory, one test of a monopolist as contrasted with a pure competitor is the ability to fix prices. Unions and monopolists are alike since they both fix prices and both hope to sell as much of their respective "products" at the fixed price as they can. It is true that the union does not attempt to fix the price of labor with the same objectives in mind as those which motivate a monopolist in setting the price of his product. Presumably a monopolist fixes a price which will maximize his profit, and in determining this price, he takes account of the fact that the quantity of his product demanded will be less at a high price than at a lower price. Unions, however, are not profit-making organizations. They are not motivated in all cases by purely economic objectives. Unions do not consistently seek to obtain the highest wage possible nor the highest maximum income for their membership nor the wage consistent with the largest number of jobs for the membership. Often unions will strike for another cent or two above what employers have been willing to concede, even though it is apparent that the strike is bound to cost the membership money when the gains achieved are balanced by the losses sustained during the strike. Moreover, recent studies suggest that in fixing wage rates, except in situations of sharp nonunion competition, unions do not take account of the fact that the higher the wage rate the smaller may be the employment of union members. In other words, unions do not behave like the calculating monopolist of economic theory.

However, strong unions do, within limits, have the power to fix the price of labor. It is in this "monopoly power" that some writers find the great threat to the continuance of the free enterprise system. Charles E. Lindblom, for example, in his influential book entitled *Unions and Capitalism* writes: "The union is a monopoly because it can and does raise the price of labor to levels which will in a competitive price system inevitably cause waste, unemployment, inflation, or all combined."⁹ Lind-

⁹ Charles E. Lindblom, *Unions and Capitalism* (New Haven: Yale University Press, 1949), p. 22.

blom believes that the foundation of union monopoly power is the strike. A union is able to maintain a monopoly price for union labor even though there is competing labor available at a lower price. It does this, according to Lindblom, by coercing the employer into submitting to the union. "Union monopoly regulates the wage rate therefore not by sustained control of supply but by control of the buyer who is the employer. The technique is the strike."¹⁰

Lindblom views the strike not as a refusal to work but as a punitive measure designed to force the employer to submit to the union. The union cannot afford merely to set an administered price and then let the employer decide whether to take union laborers at the fixed price or to hire nonunion workers. The strike with its concomitant picket line is a means of shutting out the competition of nonunion workers. Lindblom concludes that by use of the strike weapon, unions can force up the price of labor so high as to seriously misallocate resources, restrict output in expanding industries, and threaten the economy with continuing inflation and unemployment.¹¹

2. A union is like a monopoly because once certified by the National Labor Relations Board (and unless decertified) a union has, by law, an area of operation in representing workers in the bargaining unit in which competition from other unions is prohibited. Under the Taft-Hartley Act, employees bargain through unions of their own choosing which the employer must recognize as the exclusive bargaining agent. A majority of persons voting in the election determine the bargaining agent for all of the workers in the bargaining unit. So long as a union remains the certified bargaining agent, it has the exclusive right to represent workers in their relations with the employer. When this power is combined with a union shop which requires new workers to join the union as a prerequisite to holding their jobs, the union has in effect obtained a monopoly over job opportunities with the particular employer. Nonunion workers or members of other unions cannot work for the employer.

Many of the staunchest friends of labor—including the late President Franklin D. Roosevelt—have publicly expressed doubts concerning the merits of such "compulsory unionism." There is no doubt that the compulsory aspect of the union shop strengthens the power of union leaders and creates circumstances which may be used by labor bosses to enrich themselves at the expense of the rank-and-file employees. Justice Brandeis, certainly a friend of labor, felt that the ideal condition for strong unionism was to have an appreciable number of men outside the

¹⁰ *Ibid.*, p. 58.

¹¹ Whether unions cause inflation will be considered in Chapter 13.

union. As he put it, "Such a nucleus of unorganized labor will check oppression by the unions as the unions check oppression by the employer."¹²

3. A monopoly which controls the source of supply of a product essential to the public can cause the public serious inconvenience and harm by shutting off the supply of that product. Unions frequently are accused of exercising this type of monopoly power, particularly when a strike shuts down an entire industry. In recent years, there seems to have been a growing feeling in some circles that the basis for this type of union power lies in the practice of multiunit collective bargaining. In 1952, five strikes caused more than a million man-days of idleness. The largest strikes in terms of workers were those in basic steel and bituminous coal where bargaining is on a multiunit basis.¹³ To many people, the struggle between the United Steelworkers and the steel companies or between John L. Lewis' Mine Workers and the coal industry seems like a battle between Goliaths from which the public is bound to emerge the loser.

4. Monopoly in the public mind is frequently associated with great aggrandizements of financial and economic power. The power of large unions to paralyze economic activity through use of strikes is well known. Unions have also become great financial institutions. The Railroad Trainmen, for example, have a membership of only 216,000 but have a net worth in the neighborhood of \$50 million.¹⁴ The United Mine Workers have a net worth of around \$25 million. The Teamsters' Union, with a membership of 1 million, has a net worth of over \$20 million. It is obvious that when unions with such great financial resources bargain with an individual employer, the scales may be so tipped in favor of the union that the individual employer has little choice but to submit to the union demands.

5. Under the antitrust laws of the United States, the test of monopoly is the power to restrain interstate commerce. The actions of unions frequently have this effect. As a matter of fact, any large-scale strike is likely to halt the free flow of products in commerce among the several states. Furthermore, unions have frequently taken action deliberately aimed at restricting the flow of goods in interstate commerce. Thus, for example, prior to the AFL-CIO merger, a New York City local of the Electrical Workers' Union affiliated with the American Federation of Labor refused to work on electrical goods shipped into New York City from points outside the city or state which had been manufactured or

¹² Quoted in Donald R. Richberg, *Labor Union Monopoly* (Chicago: Henry Regnery Co., 1957), p. 118.

¹³ *Monthly Labor Review*, February, 1953, p. 119.

¹⁴ These data include associated insurance and welfare funds.

assembled by members of the United Electrical Workers who were then affiliated with the CIO. Under present federal law, however, such action taken by unions without collusion with employers is not unlawful. The Clayton Antitrust Act specifically recognizes that labor is not a commodity and that combinations among workers which have the effect of restricting interstate commerce are not violations of the antitrust laws of this country unless the unions also combine with employers in order to effectuate the boycott or other union objective.

6. Unions have been able to destroy individual businesses and deprive persons of their livelihood with immunity. In the famous case of *Hunt v. Crumbach*, 325 U.S. 821, a union refused to permit members to work for one particular employer and refused to permit his employees to join the union. As a result they completely destroyed his business in revenge for his previous hostility. The majority of the United States Supreme Court held that this was a legitimate exercise of the unrestricted right of concerted action with which labor organizations have been endowed by federal law. In a vigorous dissent, Justice Jackson pointed out that with this decision "the labor movement has come full circle. . . . This Court now sustains the claim of a union to the right to deny participation in the economic world to an employer simply because the union dislikes him. This Court permits to employees the same arbitrary dominance over the economic sphere which they control that labor so long, so bitterly, and so rightly asserted should belong to no man."

In summary, then, the charges against unions are that they fix the price of labor through the use of coercion and force, that they have a monopoly of job opportunities, that they can shut down whole industries, that they have become financial giants by reason of their tax-exempt status and the use of the check-off of dues, and that they hold the power of life and death over thousands of individual businesses. Labor's answer is that despite the alleged power of unions, the average worker with a family still does not have sufficient take-home pay to maintain an adequate standard of living, that the union shop is simply another application of the democratic principle of majority rule, that industry-wide bargaining is necessary to stabilize wage rates between competing employers, that the assets of unions are minute compared to the assets of the giant corporations with which they must bargain, and that while some employers may get hurt by union actions, unions use their power to serve millions of workers, not a privileged few.¹⁵

¹⁵ "The Labor Monopoly Myth," *Labor's Economic Review* (AFL-CIO publication), February, 1956.

Attempts to Limit Union Monopoly Power

Proposals to curb union monopoly power vary, depending upon the particular aspect of such power which the critic deems most reprehensible. Some critics are convinced that union monopoly power can be broken only by removing the monopoly which unions have over jobs in companies for which they are the certified bargaining agent. The Taft-Hartley Act's ban on a closed shop was a step in this direction, but some writers feel that there should be a ban on any form of compulsory membership in unions under a labor contract, "thus restoring to employees a right they should never have been denied."¹⁶ While there are pros and cons with respect to the union shop, the undisputed fact is that in elections held under the Taft-Hartley Act to determine whether or not there should be a union shop in particular companies, workers voted for the union shop in approximately 90 per cent of the elections. The principles of exclusive representation and the union shop seem too firmly imbedded in our labor relations practice today to permit it to be removed without serious damage to the collective bargaining process.

Similarly, proposals to ban industry-wide bargaining and to confine contracts to individual employers would disrupt long-standing relationships in many industries. Likewise they would make impossible bargaining through employer associations which many management spokesmen feel has done much to stabilize labor-management relations.

Attempts to apply the antitrust laws to unions in a limited fashion have some merit, but the difficulty has been to determine just what aspects of union activity should be declared illegal without engulfing labor relations in a mass of legalisms.

Perhaps the greatest need today is for some effective remedy—either through a regulatory body or the courts—to curb *promptly* union activities which most fair-minded people would say go beyond the legitimate needs of unionism. An example of such activities is the boycott against the Burt Manufacturing Company, a ventilator manufacturer. This Company signed a contract with the United Steelworkers in 1954. The Sheet Metal Workers, a rival union, aggrieved because they were not selected by the employees as bargaining agent, have apparently instructed their members all over the country not to install Burt-made ventilators. Consequently contractors turn down Burt's low bids for such work. The AFL-CIO has ordered the Sheet Metal Workers to cease and desist, but the order has been ignored by the latter union which denies that there is any

¹⁶ Leo Wolman, cited in *Nation's Business*, May, 1953, pp. 32, *et seq.*

boycott aimed at Burt. Meanwhile Burt is caught in the vise of an effective economic boycott.

Another case which is cited by union critics is the Kohler strike where the UAW after failing to achieve its objective in a prolonged 3-year strike has instituted a nation-wide boycott of Kohler products. The striking employees have long since been replaced and are now permanently employed elsewhere for the most part, but the battle continues as a contest of opposing philosophies rather than as a bread-and-butter strike. This raises the question of how long such contests of economic strength should be permitted to last in the public interest.

It seems almost inevitable that there will be further regulation of unions under federal law. Recent disclosures of racketeering and misappropriation of funds in unions have only added impetus to a movement for regulation which was the inevitable consequence of the growing size and power of unions. What direction this regulation will take will determine the course of collective bargaining for many years and the issue of "union monopoly," true or false, may then be settled.

QUESTIONS FOR DISCUSSION

1. If Congress outlawed multiunit bargaining, what would be the effects on industries which now bargain on such a basis?
2. Are unions monopolies? Explain your answer and compare unions with such aggregations of capital as American Telephone and Telegraph, United States Steel, and General Motors.
3. Why should not strikes be eliminated and all disputes referred to arbitration? If that were done, analyze the effects on bargaining as we now know it.

SUGGESTIONS FOR FURTHER READING

"Labor Monopoly Myth," *Labor's Economic Review* (AFL-CIO publication), February, 1956.

Labor's official answer to the union monopoly charge.

LESTER, R. A. "Reflections on the 'Labor Monopoly' Issue," *Journal of Political Economy*, Vol. LV (December, 1947), pp. 513-36.

A refutation of the charge that unions are monopolies.

LINDBLOOM, CHARLES E. *Unions and Capitalism*. New Haven: Yale University Press, 1949.

Although this book defines a union wage as a monopoly wage, and thus assumes its conclusion, it does present an interesting argument of the case that unions are monopolies.

KERR, CLARK, and FISHER, LLOYD. "Multiple Employer Bargaining: the San Francisco Experience," in R. A. Lester and J. Shister (eds.), *Insights into Labor Issues*, pp. 25-61. New York: Macmillan Co., 1948.

A case study of multiunit bargaining in action, its causes and results.

RICHBERG, DONALD R. *Labor Union Monopoly*. Chicago: Henry Regnery Co., 1957.

The case against unions presented by a sharp critic of unions.

STAGNER, ROSS. *The Psychology of Industrial Conflict*. New York: John Wiley & Sons, Inc., 1956.

An analysis of the motives and attitudes of labor and management which affect collective bargaining relations. Chapter 13 contains a psychological analysis of strikes.

PART IV

Economics of the Labor Market

Chapter 8

THE LABOR MARKET

In the market for labor, like the market for wheat, buyers and sellers meet and bargain over the price at which a sale is to be made. In the wheat market, one price is ultimately arrived at, determined by supply and demand, which "clears the market." Sellers who want a higher price must accept the market price or they cannot sell their product; buyers who want to pay less than the market price cannot find sellers. Does the market for labor function like the market for wheat? If not, why not? What is the explanation for the great diversity which exists in rates of wages and salaries? These are the questions which we shall seek to answer in the following discussion.

DEFINITION OF LABOR MARKET

The concept of a "labor market" has been given many definitions by various writers, depending upon their points of view and the problems with which they were attempting to deal. One economist, for example, looks on the labor market as a process by which supplies of a particular type of labor and demands for that type of labor are balanced or seek to obtain a balance. He defines the labor market as the area in which this process takes place.¹ Another uses the concept of labor market in the sense of a manufacturing and trading center plus the agricultural hinterland directly tributary to it.² During World War II, the War Labor Board defined a labor-market area as one in which the wage structure and levels in an industry were fairly uniform. The War Manpower Commission defined a labor market as the widest area in which employees with fixed addresses would accept employment.

¹ Dale Yoder and Donald Patterson, *Local Labor Market Research* (Minneapolis: University of Minnesota Press, 1948), pp. 1-2.

² Lloyd G. Reynolds, "Some Aspects of Labor Market Structure," R. A. Lester and J. Shister (eds.), *Insights into Labor Issues* (New York: Macmillan Co., 1948), p. 271.

The foregoing definitions have the common characteristics of viewing a labor market as a definite geographic area. Some economists, however, feel that the element of locality as a characteristic of the labor market is of limited significance in so far as the determination of wages is concerned. It is argued that unions now make wage decisions without reference to supply and demand influences in a particular geographic area.³ Thus the wage demands of the Textile Workers' Union in a little town in the South will be determined not by supply and demand factors within the local area or even in the same industry but may be related to a pattern of wage increases granted by the steel and automobile industries in other parts of the country.

Even though it may be necessary to go beyond a particular geographic area to find the forces or criteria which determine wage levels within that area, the concept of labor market as a geographic area is still a useful one. In this discussion, the term "labor market" will be used in the sense of the geographic area within which a particular group of employers and wage earners buy and sell services. For some forms of labor, the geographic area may be a town, whereas for other forms of labor, such as a talented violinist, the geographic limits of the labor market may be the entire Western world.

DIFFERENCES BETWEEN LABOR MARKETS AND COMMODITY MARKETS

Labor markets differ from commodity markets. Each buyer is distinguished from every other buyer. Even if the United States Steel Corporation and the John Brown Tool Company were to offer the same basic rate to machinists, the offers would differ in attractiveness to different workers. Some men like to work for a large company; some like to work for a small company. There are literally hundreds of other respects in which different employers may be distinguished in an employee's mind. Because the sale of labor involves a continuing, and not merely a temporary, relationship with the "buyer," these intangibles are frequently more important in the employee's mind than the employer's offering price.

Diversity of Rates

Diversity of rates for the same type of labor is the norm, not the exception, in the labor market. In this respect the labor market resembles certain retail product markets. Recent theories of the functioning of the

³ Arthur M. Ross, *Trade Union Wage Policy* (Los Angeles: University of California Press, 1948), p. 53.

latter type of market explain that each seller of a particular type of product is in a sense a monopolist, having his own clientele and being able to vary prices within a certain range; yet he is also in competition with all other monopolists selling similar products. Hence the term "monopolistic competition."⁴ Because each seller has some degree of control over his own market, he is frequently able to charge a higher price for the same product sold by a different firm at a lower price. The supermarket may sell a can of beans for 10 cents, while next door, the delicatessen sells the same product for 15 cents. The exclusive hat shop may sell a hat for \$50, while a copy can be obtained for \$5 in a poorer section of town. That these differences in prices for the same product can persist is attributable in part to buyer ignorance and in part to the fact that even if buyers had full knowledge of the price difference, they might not want to alter their customary buying habits.

Similarly, as we shall see in the following discussion, differences in wages for the same job may exist in the same area because workers do not have full knowledge of other job opportunities, and even if they did have accurate knowledge, the differences might still persist because of the reluctance of workers to leave their places of work to start anew in a different firm. Thus, inertia, ignorance, and immobility are of major importance in the labor market. Furthermore, because of differences in the race, sex, or length of service of employees performing the same job, diversity in wage rates for the same job may exist even within a single plant.

Wage Fixing in the Labor Market

Wage fixing, analogous to a quoted price in the product market, is characteristic of the labor market. Whereas in the commodity market it is normally the seller who sets the asking price, in the labor market (in the absence of unions) the buyer of labor normally sets the price. The price that is set tends to be "fixed" for some length of time. Employers do not want wage rates to fluctuate with every change in supply and demand conditions. Stability in wage rates is essential for satisfactory business operations. Constant change in the wage schedule of the average company would cost more than it was worth. Moreover, stability is also desirable from the point of view of employees. Frequent changes in wage rates would cause friction and suspicion and would make employees feel insecure. Therefore, in changing wage rates, employers customarily grant

⁴ E. H. Chamberlin, *The Theory of Monopolistic Competition* (3d ed.; Cambridge, Mass.: Harvard University Press, 1939).

general wage adjustments to all employees instead of adjusting rates to individual demand and supply conditions.

The majority of multiplant companies try to relate their wage scales either to those paid by other firms in the area or to rates for the same industry in the area; some, however, pay the same wage scales regardless of the size of the city or the region of the country in which their plants are located, and others have uniform scales for each region or zone. Some companies raise wages with increases in the cost of living and increases in length of service, while other companies do not. Such differences in company wage policies, in employer evaluation of particular jobs, and in stress on various wage factors all contribute to the existence of a diversity of wage rates rather than a single rate for any grade of labor in a particular locality.⁵ During World War II, the National War Labor Board, which had the task of promulgating schedules of "going rates" for wage stabilization purposes, recognized the diversity in rates for particular jobs by specifying ranges of rates rather than single rates for particular jobs in a community.

Lack of Mobility

Until recently, many economists assumed that there was enough mobility from job to job among workers within a geographic area so that if one firm paid a higher wage for a given job than other firms in the area, workers qualified for that job would attempt to get employment at the high-wage plant. The influx of applicants to this plant would tend to pull down the wage offered there and at the same time force other employers to raise their wages until equilibrium between the high-wage and low-wage firms was achieved, perhaps at some rate between the wages formerly paid by each. Recent studies indicate, however, that in the absence of collective bargaining, employers will continue indefinitely to pay diverse rates for the same grade of labor in the same locality under strictly comparable job conditions.

The labor market, therefore, is not characterized by a norm of pure competition. There is no wage which will clear the market, toward which a labor market under actual conditions even in the absence of collective bargaining is tending. The labor market is characterized by stability and lack of fluidity and a diversity of rates for similar jobs. A rise in the price of labor offered by a particular employer does not cause employees in

⁵ In Chapter 11, we shall consider a theory of wage determination which seeks to explain more fully the diversity in rates for similar jobs which frequently exists and persists in a given labor market.

other firms who are receiving less than that amount to leave their jobs and flock to the high-wage employer. Sufficiently large differentials will, of course, induce a movement of labor, but within a substantial range, changes in rates by a particular employer may have little effect in causing workers to leave other firms to seek work in the high-wage firm. In order to understand why this is so and why diverse wage rates for the same jobs can continue to co-exist in the same area, some understanding is required of workers' psychology, particularly in its relation to job hunting.

GETTING AND HOLDING A JOB

For most workers, the choice of the first job is a matter of accident or coincidence. John Jones graduates from high school and needs a job. Usually he hears of an opening through a friend or relative and goes to work there without making a systematic canvass of available opportunities in the labor market. The new entrant to the labor force does not plan his first job carefully, and frequently it turns out to be a blind alley.

The average employee has little knowledge of jobs in plants other than the one in which he works. He picks up some information from friends, and perhaps a little more from his union. Basically, however, wages, hours, and working conditions in other plants are either vague or unknown to him. The lack of knowledge on the part of employees attaches them more firmly to their present jobs. They do not think in terms of changing jobs because they do not know what the alternatives are. They know the conditions under which they work, and they fear to take a chance on the basis of their inadequate knowledge of conditions elsewhere.

Once workers have had experience on the job, their ideas as to what they want in a position tend to crystallize. Of prime importance, of course, is an adequate wage rate. Employees are likely to judge wages by two criteria: first, what standard of living the wage permits them to enjoy; and, second, how it compares to what they regard as a fair rate for the job. In addition to wages, workers tend to place a good deal of importance on such intangibles as the independence permitted them in their job; relationship with fellow workers; fairness of treatment by employer; the extent to which the work is interesting; and the physical characteristics of the job. All of these considerations, other than wages, it should be noted, are difficult to ascertain except by those who are already working in the particular plant. Lack of knowledge by employees of the merits of other jobs, therefore, is attributable not only to the failure of workers to inquire more thoroughly into alternative job opportunities but also to the

fact that such knowledge is inherently difficult to obtain prior to actual employment in such other jobs.

CHANGING JOBS

Most workers are reluctant to change jobs even if they know that a higher wage can be obtained in a different plant. One reason is the seniority which a worker ordinarily loses when he changes his position. Having to start all over again at the bottom of the seniority ladder is a dismal prospect to most workers and operates as a substantial impediment to free movement among jobs. The fear of another depression pervades the thinking of working people. For most of them, a basic objective is to work their way into a secure position where they will be protected in the event of layoffs. The higher they are on the seniority list, the more secure they feel in their present positions, and the less willing they are to make a change.

Another factor which reduces the willingness of workers to change jobs is loss of pension benefits. At present, most benefit plans financed by individual employers provide pensions which are based in part on years of service with the particular company. These benefits do not "vest" until the employee reaches retirement age or has put in some minimum period of service, usually in the neighborhood of 20 or 30 years. This means that an employee who has worked 10 years in a plant would lose all pension credits he has built up over that period of years if he leaves his present employer. Little wonder that many long-service employees are reluctant to change positions even if they know that they can obtain a higher hourly rate in a different job.

When men do leave jobs voluntarily or when they are permanently laid off, they generally do not make a calculated survey of existing opportunities. Rather they are likely to accept the first position which meets their main specifications in choosing a new job. In such instances, workers are likely to stress the wage rather than any other aspect. The reason is simple. Wages are the only criterion which they can evaluate before being on the job.

In the case of union men, the existence of the union may be as important as the wage. The importance of union organization is likely to depend upon how ardent a unionist the particular worker is and consequently how much importance he attaches to the existence of a particular collective bargaining agent.

A surprising reluctance exists among workers to use state employment agencies. Only if they are laid off and are forced to register for un-

employment insurance are they likely to utilize state unemployment offices. In such event, they are required to use the state offices if they are to receive unemployment compensation. With both employers and employees, state unemployment offices apparently have, to an unfortunate degree, the reputation of supplying less satisfactory labor and less satisfactory jobs. Therefore, workers are likely to depend upon informal and chance methods of finding jobs or, occasionally, to use private agencies.

Another interesting fact is that workers who are dissatisfied enough with jobs to quit them voluntarily often quit before they have obtained another position. This is, of course, more likely to be true in times of high employment than in times of depression. But again it indicates less systematized analysis of job opportunities on the part of workers than economists have tended to assume theoretically.

As a result of these various factors which contribute to immobility in the labor market, labor turnover in this country is relatively small even in times of full employment when jobs are abundant. In February, 1957, for example, quits averaged only 1.2 per hundred workers.⁶

GEOGRAPHICAL DIVERSITY IN WAGE RATES

We have seen that even in a local labor market, divergent rates may prevail for the same jobs. It is not surprising then to find that a similar diversity exists when rates in one city or region are compared with those in another. On the whole, rates for farm labor are more variable from region to region than rates of industrial workers. The reason is that it is easier for industry to move into a low wage area and thus raise the previously existing low rate than it is to move farms.⁷ Consequently, the diversity in rates between various farming areas tends to persist longer than between industrial areas.

On the whole, rates for particular jobs are lower in the South than in the North. A major factor producing this differential has been the presence of a large body of Negro workers in the South who have been compelled through economic discrimination to accept a low rate of remuneration for their labor. It is sometimes argued that Southern labor is less efficient than Northern labor and that therefore it is paid less. However, recent studies tend to belie this explanation. The fact is that in a number of industries, such as, for example, the textile industry, most of the new, faster, and more efficient machinery has been going into

⁶ *Monthly Labor Review*, May, 1957, p. 639.

⁷ W. S. Woytinsky and Associates, *Employment and Wages in the United States* (New York: Twentieth Century Fund, Inc., 1953), p. 475.

Southern plants. Therefore, employees in the South working with the new equipment should be more, not less, efficient than their better paid Northern brothers.

As might be expected, urban heavily populated areas generally pay higher rates for comparable work than rural areas or small towns. Some cities pay higher rates than others for jobs in particular industries. Table 15 shows relative pay levels for plant workers in selected work categories in forty major labor markets in 1951-52. The pay level for each city is expressed as a percentage of the pay level in New York City. It will be noted that in general the lowest wages were paid in Southern cities and the highest in the Far West. Occupational earnings of plant workers tended to be highest in the largest cities, particularly those in which a large proportion of the plant workers covered by the survey were employed under collective bargaining agreements.

Cities paying high wages in one industry generally stand above average in most other industries. Nevertheless, there is considerable disparity in relative position from industry to industry within each city. In general, the metalworking industries bring up the averages of all the cities in which they are prominent.⁸

North-South Wage Differentials

As between industry groups, differentials between the South and other areas vary widely. A careful study of Southern wage differentials led to the following conclusions:

1. There is tremendous and irrational variation in the North-South differential in various industries. It is virtually nonexistent in glass, aircraft, rayon, and bituminous coal as well as in the skilled trades. The North-South differential averages only 5 or 10 per cent of Northern rates in automobiles, oil, printing, railroad transportation, and cotton textiles. But it averages as high as 20-30 per cent of the average Northern wage for comparable jobs in furniture, full-fashioned hosiery, rubber tires and tubes. There is no rational reason for this variation in the North-South differential, particularly when such related industries as oil, rubber, automobiles, and aircraft have such different wage patterns.

2. Within the same industry, North-South wage differentials may vary widely. In industries with a substantial North-South differential, there will be a significant number of plants in the South which pay rates on a level with Northern competitors.

3. Wage differentials between firms within the same local areas in

⁸ L. M. David and H. Ober, "Intercity Wage Differences 1945-46," *Monthly Labor Review*, Vol. LXVI (June, 1948), pp. 599-604.

TABLE 15
RELATIVE PAY LEVELS FOR PLANT WORKERS IN SELECTED JOBS
IN FORTY MAJOR LABOR MARKETS, 1951-52
(New York City = 100)

Labor Market	Maintenance (7 Jobs)	Custodial (4 Jobs)	Warehousing and Shipping (6 Jobs)
New England:			
Boston	93	94	91
Hartford	90	93	86
Providence	85	91	82
Worcester	89	95	86
Middle Atlantic:			
Albany-Schenectady-Troy	96	95	91
Allentown-Bethlehem-Easton	92	91	87
Buffalo	100	101	98
Newark-Jersey City	103	105	101
New York	100	100	100
Philadelphia	96	91	91
Pittsburgh	100	100	102
Rochester	94	95	92
Scranton	88	80	84
Trenton	95	97	94
South:			
Atlanta	88	74	69
Birmingham	90	70	77
Houston	101	74	78
Jacksonville	91	63	64
Memphis	85	68	67
New Orleans	80	60	68
Norfolk-Portsmouth	89	73	68
Oklahoma City	80	72	75
Richmond	90	73	71
Middle West:			
Chicago	107	106	103
Cincinnati	95	90	93
Cleveland	100	98	100
Columbus	94	90	91
Detroit	111	113	111
Indianapolis	97	94	89
Kansas City	99	91	93
Louisville	101	87	88
Milwaukee	102	102	100
Minneapolis-St. Paul	99	97	93
St. Louis	101	94	95
Far West:			
Denver	92	86	84
Los Angeles	106	103	105
Phoenix	97	85	86
Salt Lake City	92	88	87
San Francisco-Oakland	111	114	113
Seattle	104	108	106

SOURCE: "Wage Differentials and Rate Structures among 40 Labor Markets, 1951-52,"
U.S. Department of Labor, Bureau of Labor Statistics Bulletin No. 1135, p. 3.

the South are generally considerably larger than the average North-South differential for comparable jobs in the cotton textile, furniture, and seamless and full-fashioned hosiery industries. This is probably partially attributable to the lesser degree of unionization in the South.⁹

Most companies which operate in low wage areas like the South are apt to base their wage policy on rates paid in the locality. There are, however, significant variations. For example, many companies such as those in the glass industry, aircraft production, and automobile industry pay uniform company wages. There seems to be no adequate explanation for the difference in attitude of various companies toward regional differentials. Both the automobile industry and the rubber industry are dominated by a few large companies which have plants in both the North and South; both were unionized by the CIO; and both have adopted uniform price policies for their products. Yet the auto industry by and large has adopted the policy of uniform company wages regardless of locality, whereas the rubber industry has based its wage policy on community rates with the result that there is a marked North-South wage differential in the manufacture of rubber tires. Parenthetically, it should be pointed out that available data tend to show that output per man-hour in terms of labor effectiveness in rubber tire production is not significantly different in the North and in the South.¹⁰

Union Policy and Regional Differentials

In general union policy has opposed regional wage differentials. The United Mine Workers, for example, have succeeded in equalizing basic wage rates between the North and South Appalachian coal regions; the Steelworkers, with the co-operation of U.S. Steel and Republic Steel, began to eliminate area differentials in the late 1940's, and the job was pretty much completed in 1954. The UAW has ended all area differentials at Chrysler and Ford and expects to go to work on General Motors next. Regional wage patterns in meat packing have also been practically ended. On the other hand, the Rubber Workers have been trying unsuccessfully for years to narrow differentials in the Big Four rubber companies, but despite these efforts the regional wage spread in 1957 was as much as 32 cents an hour.¹¹

On the other hand, many unions have not opposed Southern wage differentials where they regard them as justified by certain circumstances.

⁹ R. A. Lester, "Southern Wage Differentials: Developments, Analysis and Implications," *Southern Economic Journal*, Vol. XIII (April, 1947), pp. 387-88.

¹⁰ *Ibid.*, pp. 388-89.

¹¹ *Fortune Magazine*, January, 1957, p. 184.

Because of a poor grade of coal and higher transportation costs, the United Mine Workers continues to sanction wage differentials between the Alabama bituminous area and those of the Appalachian area. The Federation of Dyers, Finishers, Printers and Bleachers of America has sanctioned differentials between Virginia and the New York metropolitan area. Very often, local unions in a strategic bargaining situation have been called upon by the national union to forego the maximum wage increase which they might have been able to obtain from local employers simply because the national policy was to establish uniform rates which would be borne by employers generally over a wider geographic area. Uniform wages, these unions feel, increase union solidarity and lessen cleavages within the union ranks.

The difficulty of organizing workers in the South, combined with the low wages of this area, has served as a brake on North-South wage differentials in certain industries. Unable to organize the South, the hosiery and the textile workers have seen lower Southern rates keep down their wage gains in the North; and still a number of unionized mills in the North are going south or out of business. The failure of the United Mine Workers to organize Southern coal mines in the 1920's almost destroyed the union. The Northern mines were forced to break with the United Mine Workers in order to compete with the low-wage South.

In these cases, the problem of the regional differential to the union is the problem of union and nonunion competition. The problem of the North-South differential is less acute when the unionized high-wage employers are located in and sell to a market, such as the Far West, which because of distance and geographic factors is primarily local and is not sensitive to southern competition. A case in point is the West Coast pulp and paper industry which is apparently able to pay higher wages than branches of the industry in other parts of the country without damaging its market or adversely affecting employment.

INDUSTRIAL DIFFERENTIALS

Marked differences in rates and earnings prevail among various industries. One might think that if workers consistently earned more in automobile manufacture than in leather manufacture, there would be a tendency for employees to leave the latter and seek jobs in the higher-paying automobile industry with the ultimate result that rates and earnings would tend to be equalized between the two industries. The fact that differentials continue to persist over long periods of time between in-

dustries is further evidence of the lack of mobility in the labor market and the divergence of the actual labor market from the theoretical norm.

Industrial differentials can be compared in terms of hourly or weekly earnings, on the one hand, and annual earnings, on the other hand. The latter statistic gives greater weight to continuity of employment. Actually, one can understand industrial differentials only by considering both classes of figures. For example, in 1954 average hourly earnings in bituminous coal mining were \$2.48. This was one of the highest rates among the various industry groups. (See Table 16.) But this high hourly rate was intended in part to compensate for the erratic employment which prevails in this industry. Average annual earnings of full-time employees in bituminous coal mining in 1954 amounted to only \$4,062.¹² This is the equivalent of only about 40 weeks of work per year (assuming a 40-hour week). Except during World War II and the height of the Korean emergency, coal miners have rarely worked even as much as 40 weeks in recent years.

TABLE 16
AVERAGE HOURLY EARNINGS AND AVERAGE ANNUAL EARNINGS
IN SELECTED INDUSTRIES, 1939, 1950, 1954

INDUSTRIES	HOURLY EARNINGS			ANNUAL EARNINGS		
	1939	1950	1954	1939	1950	1954
Automobiles and equipment...	\$0.93	\$1.78	\$2.20	\$1,762	\$4,007	\$5,065
Anthracite mining.....	0.92	1.97	2.52	1,406	3,107	3,550
Bituminous coal mining....	0.89	2.01	2.48	1,197	3,266	4,062
Machinery, except electrical....	0.75	1.61	2.01	1,681	3,757	4,729
Rubber manufactures.....	0.75	1.58	1.97	1,548	3,528	4,320
Metals.....	0.74	1.65	2.09	1,549	3,628	4,399
Wholesale trade.....	0.72	1.48	1.83	1,773	3,900	4,639
Electrical machinery.....	0.70	1.48	1.82	1,601	3,369	4,253
Chemicals.....	0.65	1.51	1.91	1,611	3,763	4,750
Stone, clay, and glass.....	0.64	1.44	1.77	1,359	3,263	4,092
Food and kindred products....	0.61	1.35	1.67	1,372	3,071	3,813
Paper and allied products....	0.59	1.41	1.75	1,414	3,474	4,289
Retail trade.....	0.54	1.18	1.45	1,224	2,807	3,203
Leather manufactures.....	0.53	1.19	1.38	1,038	2,550	2,957
Apparel manufactures.....	0.53	1.20	1.35	1,025	2,492	2,971
Furniture manufactures.....	0.52	1.28	1.57	1,138	2,846	3,641
Tobacco manufactures.....	0.48	1.08	1.30	916	2,258	2,833
Textile mill products.....	0.46	1.24	1.36	960	2,767	3,000
Local railways and bus lines....	0.17	1.49	1.81	1,701	3,400	4,081

SOURCES: *Survey of Current Business*, National Income Supplement (Washington, D.C.: U.S. Department of Commerce, 1951), pp. 184-85; *Monthly Labor Review*, Vol. LXVIII (June, 1949), pp. 707-23; *Monthly Labor Review*, Vol. LXXIII (October, 1951), pp. 498-513. *Economic Almanac for 1956* (New York: National Industrial Conference Board, Inc., 1956), pp. 308-9; *Business Statistics*, 1955, Supplement to *Survey of Current Business*, pp. 74-78.

¹² *Economic Almanac for 1956* (New York: National Industrial Conference Board, Inc., 1956), pp. 308-9.

The existence of industrial differentials does not necessarily mean that workers performing comparable jobs are paid at different rates in different industries, though this is sometimes the case. One industry may pay lower rates on the average than another because less skill is required in the industry; because of the larger percentage of women, Negroes, or part-time workers employed; because of the location of plants in small towns or rural areas rather than in metropolitan areas; or because of the lack of union organization.

There appears to have been no significant trend toward broadening or narrowing of industrial differentials in hourly earnings in the last decade. Industries have, however, shown more change in position relative to one another when annual earnings are compared. Table 16 shows average hourly earnings and average annual earnings in selected industries in 1939, 1950, and 1954.

Studies of the trend over longer periods of time—as for example, the past 50 years—are handicapped by the lack of adequate statistical data. Basic hourly rates would, of course, be the best wage measure, but such figures are for the most part unavailable. Statistics of gross average hourly earnings are not very complete prior to 1950. One investigator, using average annual earnings as the measure of the “wage standing” of the particular industries, found in a study of eighty-four manufacturing industries for 18 census years of the 1899–1950 period that

the interindustry wage structure in manufacturing has been surprisingly stable over the long run, although the elusive nature of the term “stable” is to be emphasized . . . the rankings of manufacturing industries within the wage structure changed so slowly in the past that many of the high-wage and low-wage industries of 1899 were still to be found among the high-wage and low-wage industries in 1950; there was little if any long-run tendency toward compression of the interindustry wage structure over the past half-century, although differentials were often narrowed temporarily during both extremes of the business cycle; and as a logical corollary of the stability of this structure, there was only a slight tendency for workers’ earnings to be equalized over the 1899–1950 period among those industries which ranked at the very top and bottom of the wage structure in 1899.¹³

The same study revealed that the low wage category was more stable than the high wage. Of fifteen industries in the low wage class in both 1899 and 1947, ten were continuously in this classification in every intervening Census year. These industries were: cigars and cigarettes, brooms, paper bags, cordage, confectionary products, corsets, cottonseed

¹³ Donald E. Cullen, “The Interindustry Wage Structure, 1899–1950,” *American Economic Review*, Vol. XLVI (June, 1956), p. 354.

oil, textile bags, chewing tobacco, and canning.¹⁴ Among the factors which undoubtedly contributed in varying degrees to produce this group of low-wage industries were high percentage of unskilled labor, high proportion of female or Negro employees, highly competitive market conditions, location of plants in small Southern communities, and low profits.

DIFFERENTIALS DUE TO SEX AND RACE

The earnings of women have in recent years been about half those of men, the earning of Negro men about half those of white men, and the earnings of Negro women about half those of white women.¹⁵ These differentials result not so much from payment of different rates for the same jobs as from restriction of job opportunities. Since many women work only part time or prior to marriage, they do not gain seniority, acquire skills, or obtain promotion to higher paying jobs. Moreover, as a matter of custom, women have generally been afforded employment in jobs which pay less than the jobs available to men.

With respect to Negroes, the differential is again primarily a result of limitation of job opportunities. A department store will not set up one rate for white clerks and a lower rate for Negroes; yet if its employment rolls are examined, chances are that a preponderance of Negroes will be employed as porters, elevator operators, and other low wage categories.

DIFFERENCES IN OCCUPATIONAL REMUNERATION

In 1956 the chairman of Bethlehem Steel Corporation received executive compensation of \$809,011,¹⁶ or at the rate of \$15,557.90 per week! In the same year, average weekly earnings of production workers in manufacturing were only \$80.13.¹⁷ What is the explanation for this great disparity in earnings? Does the variation in earnings in a capitalistic society reflect differences in ability or are other factors responsible?

If conditions of work (other than wages) were equally attractive in all occupations, if all workers had the same mental and physical abilities, and if all occupations were equally easy to enter, then in a perfectly competitive labor market, wages in every occupation for every worker would be equal. In the actual labor market, of course, none of these con-

¹⁴ *Ibid.*, p. 360.

¹⁵ Woytinsky, *op. cit.*, p. 451.

¹⁶ *Business Week*, May 25, 1957, p. 113.

¹⁷ *Economic Report of the President*, January, 1957 (Washington, D.C.: U.S. Government Printing Office, 1957), p. 7.

ditions is present. If we remove restrictive assumptions one by one, we shall be able to gain an understanding of the causes contributing to the differences in wages which exist in the business world.

EQUALIZING DIFFERENCES

Not all occupations are equally attractive to workers. Therefore, even if every worker had freedom of choice as to the type of work he would perform, we would expect that certain jobs which were less attractive would have to offer higher pay in order to attract workers, while positions in which working conditions were particularly satisfactory would be able to obtain workers at lower wages. In other words, a part of the differences in wage rates which we observe in the labor market represents a factor which equalizes the attractiveness of various occupations. For example, the low salaries of college professors are partially offset by the short hours of work, the long vacations, and the opportunity for research and study. Women who work as domestics in homes frequently receive more than women who perform clerical tasks in business, because according to our social mores, servile work is looked upon as somewhat degrading, and therefore additional compensation must be offered in these jobs to equalize their attractiveness with other positions which these women might obtain.

There are many other equalizing factors which balance differences in wages. For example, the clerk in the head office of a large company will be willing to start at a lower wage than a day laborer in the same plant because the opportunities for advancement open to the clerk make up for the deficiency in his entrance salary. Similarly, an occupation in which there is a chance, however small, of making very great earnings—as in the practice of law—is able to attract applicants who are willing to start in as clerks at little or no wage. Hazard to life is another factor producing wage differences—the pilot who tests new planes for an aircraft company receives a very high wage in order to compensate him for the risk to life involved in his work.

Another important equalizing difference is the expense of training. The doctor expects a higher remuneration for his work than a carpenter because the expense of his training is so much greater. Thus, a part of the higher remuneration of the professional class generally is reimbursement for the long years of study. However, as we shall see, the expenses of training may create differences in remuneration which are not merely equalizing but which are out of proportion to the expense of training.

In actuality, most differences in wages in the labor market do not

seem to be of the equalizing character. Indeed, they are more often the reverse. Instead of the most unattractive work being the best remunerated, it is usually the poorest paid. It is the ditchdigger and the garbage collector—not the movie actor—who receives the least remuneration for his labor.

NONEQUALIZING DIFFERENCES

Broad differences in wages prevail which bear no relation to the relative attractiveness of the work involved. The first great source of such differences is the lack of uniformity in physical and mental capabilities among the working population. Even if every worker had freedom of choice to enter any occupation, it is obvious that few would have the talents—physical or mental—to be great scientists, writers, or boxers. The extent to which such abilities are a result of training and environmental factors is still a subject of debate among psychologists, but it is evident that all workers are not equally gifted by inheritance. Those talents which are prized most highly by the community and which are least common among workers tend to be remunerated with the highest earnings.

Even in more humdrum occupations, such as machine operation or assembly production, differences in ability and dexterity among workers will be reflected in large variations in earnings, if the workers are paid by the piece or on an incentive basis. Industrial psychologists have found that individual differences in dexterity, for example, are very great. In one study made of thirty-six electrical fixture assemblers who were paid on an incentive wage basis and who were engaged in identical jobs with identical equipment and layouts, the best operator earned slightly more than twice the average hourly compensation of the poorest operator.¹⁸

Another important cause of differences is the fact that all occupations are not equally easy to enter. Even in our free enterprise society in which class lines are not firmly drawn well-defined social strata emerge which render it difficult for the poor son of a laborer to rise to be head of a great corporation. Examples of such spectacular successes are often cited, but they represent an ideal rather than a likelihood for the ordinary working man.

Differences in ability and in training account for only a part of the wide variations which exist in compensation of members of the labor force. Sometimes the amount of money which a person receives for his work will depend more on who his father is or what business his rela-

¹⁸ Joseph Tiffin, *Industrial Psychology* (New York: Prentice-Hall, Inc., 1946), p. 4.

tives control than upon his own ability or training. Nepotism—favoritism shown to relatives in employment—is a factor not only in politics but also in the labor market.

NONCOMPETING GROUPS

The labor market is characterized by a vast number of noncompeting groups, as will be more fully explained at a later point in this discussion. However, in terms of occupational differentiation, five broad strata can be distinguished in the ranks of employees. At the lowest level in terms of pay and social position is the common laborer, performing work which requires a minimum of skill and a maximum of brawn. His wages are low because there are very many persons in the labor market who can do such simple work and can do no other. Many workers find an entry into such occupations who would be excluded from other types of positions. Thus, the Negro, the immigrant, and various other minority or foreign-born groups make up a large proportion of this lower stratum.

At a somewhat higher wage come the semiskilled. These are workers who have ordinarily had some education and have acquired some knowledge of a technical art but who, for one reason or another, have not served the necessary years of apprenticeship to become skilled artisans.

Above them come the skilled workers—carpenters, boilermakers, bakers, and so on. Most of these men have union cards and the benefit of a considerable period of apprenticeship behind them. That they consider themselves in some respects superior to less skilled fellow workers is demonstrated by the clannishness of the skilled craftsmen in the American Federation of Labor who, for many years, refused to accept unskilled workmen into membership.

The next group on the ladder of social status—the clerical workers—are frequently below the skilled and sometimes below the semi-skilled—in terms of remuneration. Yet in outlook and social allegiance, they are allied with the professional and capitalist class. In recent years, however union organization has made slight inroads in the clerical group, and it is possible that this development may produce a stronger social-political bond between the first three groups of labor and the clerical workers.

The top group in the labor market in terms of pay and social prestige are the professional workers—the doctors, dentists, lawyers, architects, engineers, professors, and others who have generally trained for their occupations in college and advanced study.

While there is considerable movement between these groups, never-

theless, to some extent, the strata become self-perpetuating. In other words, the son of a doctor is likely to become a member of a profession, while the son of the common laborer is more likely to be a laborer, or at best a skilled worker. The greatest barrier to movement up the ladder of social strata is the cost and time required for education. The poor laborer would like his son to go to college, and it may be that he is bright enough to win a scholarship. But all too frequently a rising career is blighted because the son must leave school in order to go to work and earn money toward the support of the family. The GI Bill of Rights, however, may have a major effect on the degree of mobility between these various groups. It has afforded higher education to thousands of men who would otherwise have been denied the opportunity because of lack of funds. These men will want their children to have the same opportunity, and they will be better able to give them this opportunity because they themselves will leave schools and colleges equipped for higher-paying jobs in industry.

There has been a tendency in this country toward a narrowing of differentials in earnings between occupational groups. Thus, for example, the relative spread between wage rates of skilled and unskilled workers has been cut by nearly half in the past 40 years.¹⁹ While the emphasis of industrial unions, such as the Automobile Worker's Union, on cents per hour increases, which raise rates of lower-paid workers relative to higher-paid workers, has undoubtedly contributed to the narrowing of the differential between skilled and unskilled, other more basic forces were also at work to bring about this change. Even in the building trades, which are organized and bargain on a craft basis, there has been a marked narrowing of differentials between skilled and unskilled workers. In 1939 the average union scale for journeymen in the building trades was 70 per cent above the level for laborers and helpers; by 1945, this differential had narrowed to 54 per cent, and in 1952, it stood at only 38 per cent.²⁰

One basic reason for the relative improvement in wages of unskilled workers has been the metamorphosis in the type of work performed by "unskilled" workers. The ditchdigger now uses a machine; unskilled labor is now being combined with more capital than in the past, with the result that its productivity—and wages—has been substantially increased. In this connection, it is perhaps significant that more than a decade ago the United States Bureau of Labor Statistics discontinued its annual sur-

¹⁹ Woytinsky, *op. cit.*, p. 510.

²⁰ H. M. Douty, "Union Impact on Wage Structures," unpublished paper read at the December, 1953, meeting of the Industrial Relations Research Association, Table 3.

vey of the entrance rates of male common labor because of the increasing difficulty of obtaining reasonably comparable reporting among firms and industries for a "common labor" classification of workers.²¹

Another important reason for the relative rise in wages of lower-paid workers has been the substantial reduction in immigration in the past decade. In years past, many of the foreign-born found jobs doing manual unskilled work at the lowest rung on the occupational ladder.

In addition to these two influences, the following factors have also contributed to the decline in occupational differentials in recent years: (a) a comparatively long inflationary period characterized by large increases in money wages primarily on a cost-of-living basis; (b) a definite tendency evident in governmental and trade-union policy to apply "cost-of-living adjustments" uniformly in cents per hour.²²

At the same time as the gap between unskilled and skilled workers has been narrowed, the differential between unskilled and white-collar workers has also been reduced and in some cases eliminated. Some professional groups now find their average hourly earnings below those of skilled workers. These shifts in the labor market reflect the dynamic aspect of our economy which continually changes the values accorded by our society to individual skills and capabilities. It also reflects the changing bargaining position of various groups as a result of union organization.

The concept of noncompeting groups is helpful in explaining the broad economic strata into which the labor force is divided. In actual practice, however, there are not five but literally hundreds of noncompeting groups in a given labor market. These groups generally have as their basis a particular skill, sometimes attachment to a particular industry, sometimes a common ethnic or racial background. A study of job-hunting patterns in a New England mill town in 1949 found separate pools of labor grouped around the operation of foundries, machine shops, lumber products, and textiles.²³ Employees in these groups were practically noncompeting, and shutdowns in one industry affecting one pool of labor had no direct influence on rates of other groups, unless the shutdown lasted for a considerable period. Then unemployment affected wage levels in the mill town generally. Furthermore, these investigators found that although on first analysis the rates paid in a given labor market may seem to be highly diverse, when the workers are grouped according to

²¹ *Ibid.*, p. 4.

²² *Ibid.*, p. 8.

²³ C. A. Myers and G. P. Shultz, *The Dynamics of a Labor Market* (New York: Prentice-Hall, Inc., 1951), p. 155.

these submarkets or noncompeting groups, a more uniform pattern becomes discernible.

UNIONS AND WAGE DIFFERENTIALS

Traditionally, it was thought that the competitive norm in the labor market was uniformity of rates for comparable jobs and that only imperfections in the market permitted differentials to persist. Based on this premise, it would seem to follow that the introduction of a union into a labor market—since it represents a departure from free competition in the market—would produce even greater variation in wage rates for similar jobs. What has been the effect of unions in practice?

In the first place, in the individual firm, the advent of the union compels the employer to re-examine and justify his internal wage structure. As a result, management in organized plants has been compelled to set up job-evaluation plans and in general to eliminate unjustified differentials between similar jobs.

In the second place, when unions bargain with a number of companies in an industry, they have—as we have already observed earlier in this discussion—exerted strong pressure to achieve uniformity in rates for similar jobs in the various companies with which they bargain.

The interesting question that remains is: have unions tended to introduce a new type of differential in the labor market—a differential between union and nonunion companies? On this subject there is considerable controversy among economists. One of the difficulties in ascertaining an answer to this question is that it is extremely difficult to isolate the effect of union organization alone. For example, larger companies usually pay higher rates than smaller companies for similar jobs. Since unions have by and large organized the larger companies in various industries first, a comparison of rates in organized and unorganized plants in such industries will generally show that the unionized plants pay higher rates. Obviously, such a comparison is no real indication of a union-caused wage differential. One recent study sought to eliminate the effect of such factors as size of company by comparing wage rates in 1950 of time workers in nonunion and union establishments in comparable plants in the same metropolitan area in seven industries: paints and varnishes, furniture, footwear, cotton textiles, hosiery, automotive parts, and women's dresses. This study found that for the industries and occupations considered, there were no significant differentials between the rates of workers in union and nonunion plants.²⁴

²⁴ John E. Maher, "Union, Nonunion Wage Differentials," *American Economic Review*, Vol. XLVI (June, 1956), pp 336-52.

Another writer using straight-time hourly earnings for fifty industries grouped according to degree of organization in 1933 and terminal years 1938, 1942, and 1946 concludes that *new* unionism was a source of relative wage advantage during the 1933-46 period whereas continuing unionism was not.²⁵ Most nonunion companies today attempt to keep their rates in line with their organized competitors so as to forestall union organization of their firms. Consequently, study is unlikely to reveal any significant wage advantage in organized firms.

SUPPLY AND DEMAND IN THE LABOR MARKET

We have seen that the labor market differs materially from the market for wheat which we considered at the beginning of this chapter. Diverse rates, rather than a single rate, typically prevail for a given type of labor in the labor market. There is no one market price—even for a particular grade of labor. Buyers and sellers are able to make bargains at a variety of rates.

How then do supply and demand fit into this picture? It will be recalled that we have defined the labor market in terms of a geographical area. Because labor is highly immobile, unemployed workers in a labor market tend to remain in the area rather than to seek jobs in a different market. A recent study found that both in union and nonunion firms wage rates paid to newly employed workers were affected by the existence of unemployment in the area.²⁶ Despite the existence of noncompeting groups, therefore, if there is a decline in business and therefore in demand for labor in a particular area, which produces some unemployment, this change in demand will ultimately make its influence felt on the whole structure of wage rates in the community. Likewise, if the supply of labor in a local market is reduced, say, by drafting men for the army who would otherwise become additions to the labor force, this influence too will have its ultimate effect on wage levels.

Supply and demand—two traditional conceptual tools of economists—have not, therefore, been rendered useless by our changed conception of the labor market. Supply and demand do not interact to produce a single rate in the market, but they do influence the level of the whole structure of diverse rates that characterizes the actual labor market. In the next two chapters we shall consider in detail what demand and supply mean in terms of labor and the labor market.

²⁵ A. M. Ross, W. Goldner, "Forces Affecting the Interindustry Wage Structure," *Quarterly Journal of Economics*, Vol. LXIV (May, 1950), pp. 254-81.

²⁶ Myers, *op. cit.*, p. 151.

QUESTIONS FOR DISCUSSION

1. What factors are responsible for the existence of diverse rates for similar jobs in the same labor market? What effect would you expect union organization to have upon such diversity of rates? Why?
2. Discuss the theory of noncompeting groups. Of what value is this theory in explaining actual differences in remuneration in the labor market?
3. Discuss union policies toward regional wage differentials. Why do union policies vary so much?

SUGGESTIONS FOR FURTHER READING

MAHER, JOHN E. "Union, Nonunion Wage Differentials," *American Economic Review*, Vol. XLVI (June, 1956), pp. 336-52.

One of the few studies made comparing union and nonunion rates in similar establishments in the same area.

REYNOLDS, LLOYD G. *The Structure of Labor Markets*. New York: Harper & Bros., 1951.

A case study of labor mobility and wage determination in a New England city, together with a discussion of labor-market theory.

WARNER, W. L., and ABEGGLEN, J. C. *Occupational Mobility in American Business and Industry*. Minneapolis: University of Minnesota Press, 1955.

A study based on an analysis of the social origins and careers of 8,000 major business executives which seeks to determine what is happening to vertical occupational mobility in the United States.

Chapter 9

THE SUPPLY OF LABOR

We have seen that the labor market is the area in which the supply and demand for a particular type of labor seek to obtain a balance. But what precisely do we mean by the "supply of labor"? Actually, there are many supplies of labor corresponding to the thousands of types, skills, trades, professions, and abilities characterizing the individual members of the labor force. But because the baker, the banker, the actress, and the mechanic all work for a salary or wage, the economist sometimes lumps them all together when he is thinking in terms of an all-inclusive "labor supply."

The supply of these various types of labor can be considered from four points of view:

The Supply of Labor Available to an Individual Firm. This may be large or small, complex or relatively homogeneous, depending upon the size of firm, the ramifications of its operations, and the diversity of its products and plant locations. The labor supply of the United States Steel Company, for example, would represent a cross section of the working population. It would include miners, merchant seamen, scientists, bookkeepers, salesmen, in addition to the great variety of skilled and unskilled workers who are required to operate modern steel rolling mills and blast furnaces. By contrast, the supply of labor to the corner drugstore would probably include only a pharmacist and some clerks.

The Supply of Labor Available to an Industry. An industry may be defined, for our purposes, as a group of firms producing approximately the same product. The supply of labor to an industry will ordinarily represent a broader class of skills than the supply of labor to an individual firm because of the variation in methods of production used by firms making the same product in different parts of the country. The supply of labor to an industry may, however, be quite limited if the industry draws upon a relatively scarce type of skilled labor. For example, there are comparatively few qualified violin makers in this country. Consequently,

the supply of labor available to this *entire industry* in the United States is less than the supply of labor available to an individual firm in other industries (such as, for example, the United States Steel Company).

The Supply of Labor Available to a Particular Locality. This will represent workers of all types employed in a variety of industries within the particular locality. Unless employment in the locality is highly specialized, the supply of labor will normally include a greater variety of skills and classes of workers than either the supply of labor to an industry or the supply to the average firm. Availability of new workers will depend upon the mobility of workers from other areas and upon the extent to which persons in the area, not normally members of the labor force, can be induced to enter employment.

The Supply of Labor Available in the Economy as a Whole. This is the labor force, including workers of all types in all industries in all sections of the country. Since immigration is relatively unimportant, the availability of additional workers in the short run will depend upon the extent to which persons not ordinarily part of the labor force can be attracted into employment.

VARIATIONS IN LABOR SUPPLY

Labor supply is subject to a diversity of influences. Moreover, some influences will affect one element in labor supply (such as hours of work) without affecting another element (such as number of workers available). It is therefore useful to distinguish, on the one hand, the various *causes* of variations in labor supply and, on the other hand, the *components* of labor supply which are subject to variation. We may then select the particular relation between cause of variation and components of labor supply which we wish to study.

The components of labor supply are number of workers, hours of work (i.e., length of workday and workweek), and efficiency. Causes of variation in labor supply include variations in the wage rate, family income, willingness to work, physical strength of the worker, conditions of work, and similar factors. A rise in family income, for example, may influence all three components of labor supply. A rise in family income may make it possible for Johnny to go to college, thus reducing the number of men available for work; it may enable the family breadwinner to buy a cottage at the beach and therefore interest him in securing a reduction in the workweek so that he can spend his weekends at the beach; and it may enable him to eat better and to see the doctor and dentist more regularly so that his physical efficiency will be improved.

In the following discussion, we shall be primarily concerned with all three components of labor supply but with only one of the causes of variation: the wage rate. Holding the other causes constant (with the exception of family income) and changing only the wage rate, we shall attempt to ascertain how the amount of labor supplied will vary. This is the conventional way of studying changes in labor supply in the labor market.

Role of Nonwage Factors

It seems probable that the most important single cause of *variation* in the short-run supply of labor is change in the rate of compensation for jobs. The level of wages is, of course, not the only factor which employees consider in seeking employment. We know that proximity of the place of employment, congenial atmosphere, employment with friends or relatives, regularity of work, security, and prospect of advancement are all important elements affecting the attractiveness of a job to the individual worker. However, it is the level of wages which normally fluctuates frequently, and it is, therefore, easier to correlate changes in labor supply with this cause of variation than with others. Furthermore, since an employee can and usually does obtain information about wages in a company before taking a job there, but finds it more difficult to acquire adequate knowledge about other aspects of employment in the plant, changes in wages probably bear a close relation to job-seeking patterns in the labor market.

That wages are not the only considerations, however, is reflected in the diversity of wage rates for identical jobs which prevails in the labor market. In many cases, employees may be willing to accept a lower rate in a particular firm simply because of other advantages it affords to its employees which are not revealed in the wage rate. This circumstance causes the supply of labor to react differently to wage changes in different firms. Suppose two firms, A and B, are paying identical rates for stitchers. Now suppose that both firms desire to expand output and need more workers. Firm A may have to raise rates considerably in order to attract more stitchers, while Firm B may be able to obtain additional stitchers with little or no increase in wage rates. The reason for this difference in reaction of labor supply is that other conditions of work in the two companies are not identical. For example, Firm B may be known as a "good place to work"—where the employer treats employees "right"—and because of this reputation may find it easy to attract new workers. Personnel men today recognize the importance of nonwage elements in increasing job attractiveness and to this end attempt to make employees feel happy

and secure in their employment through participation in group employee recreation programs, company newspapers, and similar plans.

In the following discussion, supply curves have been drawn in terms of changes in wage rates. We might also have drawn supply curves in terms of changes in regularity of employment, changes in prospects for promotion, or similar conditions. These and other circumstances make their influence felt on the supply of labor. Although in the following discussion we have, for the sake of simplicity, dealt with changes in supply of labor in terms of its relationship to changes in wage rates, it might be helpful to consider wage rates as standing for the "net attractiveness" of the job. Or, looked at another way, if we assume that other things are held constant (i.e., all aspects of the job relationship other than wages), then a change in wage rates must itself change the net attractiveness of the job.

Short-Run Supply of Labor

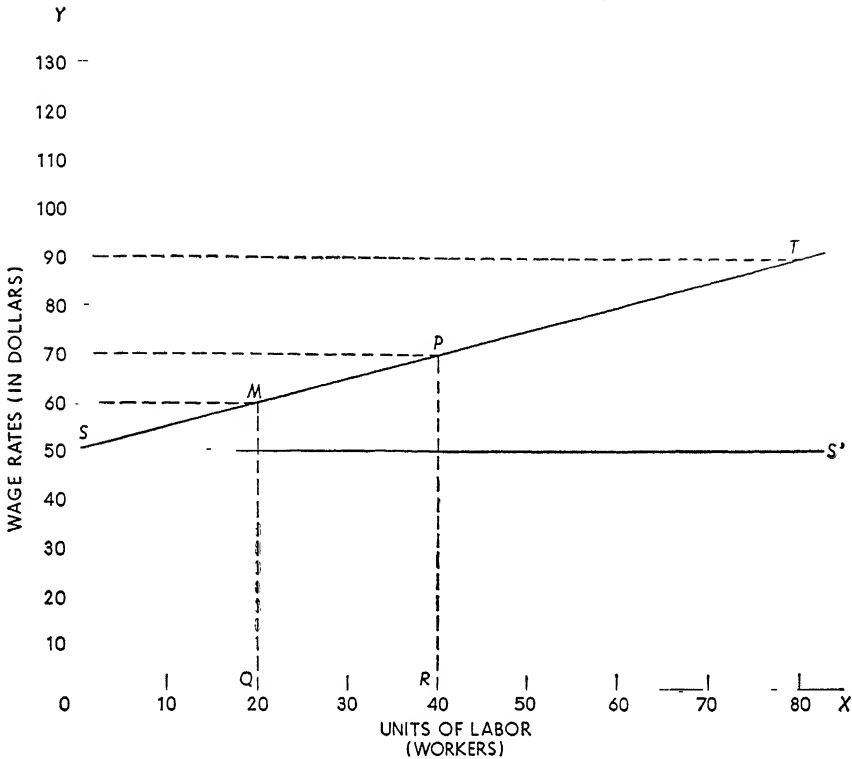
Variations in labor supply may be considered from either the short-run or long-run point of view. The short-run supply of labor may be defined as the schedule of the varying amounts of labor that would be supplied at varying wage rates. Geometrically represented, the schedule is a curve on a diagram on which the wage rate is measured along the ordinate (*Y*-axis), and the number of workers, or units of labor, is measured along the abscissa (*X*-axis).

As has already been mentioned, the supply curve may be drawn from the point of view of an individual firm, an industry, locality, or the economy as a whole. For the purpose of explaining geometric representation of supply conditions, we may assume that Figure 14 represents supply curves of labor to a firm. The same type of representation, however, can be used to show supply conditions from the point of view of an industry, locality, or the economy. Figure 14 shows two hypothetical supply curves of labor. The line *SS'* has been drawn parallel to the *X*-axis and intersects the *Y*-axis at a wage rate of \$50 per week. Since *SS'* is parallel to *OX*, it indicates that at a rate of \$50 per week the employer anticipates that he can get 20 workers or 40 workers or 70 workers. In other words, as much labor as the employer requires can, within limits, be obtained at the same wage rate. Economists describe this situation by saying that the supply curve of labor is perfectly "elastic." Increasing amounts of labor can be obtained without raising wage rates. As we shall see in the following discussion, this is frequently the case when unemployment exists in the labor market.

Suppose now that a war crisis arises suddenly, and large numbers of

FIGURE 14

SHORT-RUN SUPPLY CURVE OF LABOR



workers are drafted into the army. Our employer's supply curve for labor may now be changed abruptly to one which looks like the line *ST* in Figure 14. Because of the shortage of labor in the market, the employer now finds that to get more labor he must offer a progressively higher wage rate to attract workers away from other firms and to draw persons out of retirement into his factory. Thus while 20 workers (*OQ*) can be hired for a wage of about \$60 per week, if the employer wants to double his labor force to 40 workers, he may find that he will have to raise his rate to \$70 per week (*RP*). Such a supply curve, which correlates higher wage rates with increased labor supply, is known as a supply curve of less than perfect elasticity.¹ This usually means that the supply of labor is limited relative to buyers' demands and that additional workers or addi-

¹ The concept of elasticity will be utilized from time to time in the following chapters in connection with both supply curves and demand curves. The elasticity coefficient is equal to the percentage change in quantity divided by the percentage change in price (or wage). Algebraically this relation can be expressed as $(\Delta Y / \Delta X) X / Y$, where *Y* equals quantity and *X* equals price.

tional hours or units of labor can only be obtained by raising rates of pay.

The more "elastic" a supply curve is, the greater will be the increase in labor associated with a given increase in wage rates. Looked at another way, the steeper the slope of the supply curve, the less elastic it will be. In Figure 14, curve SS' is more elastic than curve ST , and curve ST has a steeper slope than curve SS' . If the supply curve is vertical, meaning that no matter how wage rates rise or fall, there will be no change in the amount of labor available, the supply curve is said to be "perfectly inelastic" or of "zero elasticity." On the other hand, if the supply curve is horizontal, as in the case of curve SS' in Figure 14, any amount of labor (within limits) can be obtained at a constant wage rate. Such a curve is called "perfectly elastic."

The short-run supply schedule is drawn up on the assumption that population remains constant. Population growth enters into the long-run supply curve which will be discussed later in this chapter.

Classification of Variations

Much confusion arises in discussions of labor supply because of a failure to distinguish properly between a shift in the entire supply curve and a movement along the curve. The former should be referred to as a "change in labor supply," since "supply" means the whole schedule. The latter should be designated as a "change in the amount of labor supplied," that is, a movement from one *point* on the supply curve to another. This distinction will be clarified if variations in the availability of workers, labor time, and labor efficiency are considered from the viewpoint of whether they do, or do not, involve an actual shift in the supply curve:

1. A change occurs in the number of workers available in the market.
 - a) Such a change may be attributable to factors other than a variation in wage rates. For example, war demobilization added millions of GI's to the ranks of the labor force. Where the change in numbers of workers is attributable to nonwage causes, the whole supply schedule of labor shifts its position, either to the right or to the left, depending on whether there has been an increase or decrease in the number of workers available at given rates.
 - b) Additional workers may be induced to enter the labor market by the attraction of high wages. To the extent that this is true, there has been a movement along a given supply curve.
2. A change occurs in hours of work.
 - a) During World War II, hours of work of nonagricultural employees increased from 41 hours in 1940 to a peak of more than 46 hours per week in 1943. In part, the willingness to work these longer hours was

motivated by a desire to bring the war to a speedy and successful conclusion. That is, the motive of patriotism would have actuated workers to accept some lengthening of the workweek with no increase in hourly wage rates. To the extent that this was true, there was a shift to the right in the labor supply curve.

b) Workers increase hours of work because of availability of work beyond 40 hours at a premium rate of time and a half. This represents a movement along a given supply curve.

3. A change occurs in efficiency.

a) Music is played in a factory during working hours and as a result output increases. There has been a movement of the entire supply curve.

b) On the other hand, if additional efficiency is forthcoming simply as a result of a piece-rate system which rewards additional effort with additional compensation, there has merely been a movement along a given supply curve.

The same distinction in terminology, of course, applies to shifts of the demand curve for labor and to movements along that curve.

THE SUPPLY CURVE OF LABOR TO THE FIRM

The supply of labor may be considered in relation to a particular firm, an industry, a locality, or the economy as a whole. The last three types of supply curves are "objective." That is, they represent the "actual" changes in supply of labor which would accompany given changes in the rate of wages, if such variations in supply could be isolated from the general flux in the labor market and measured. The supply curve of labor to the individual firm, however, is of quite a different nature. The supply curve of labor to the individual firm, as this concept is normally used by labor economists, is a subjective concept, not an objective fact. It represents the *expectation* of the individual employer as to what the relationship of wage rates and labor supply *will be*. Analysis of employer actions in the field of labor—as in economics in general—depends on understanding the subjective estimates of the employer as to the interrelation of costs, prices, and other variables. The supply curve of labor to the individual firm represents the employer's estimates as to what wage rates he will have to pay to obtain varying amounts of labor.

Of course, we could draw up an objective supply curve of labor for the individual firm. The slope of such a curve would reflect, among other things, differences in worker preference for specified combinations of money income and working conditions, attachment of workers to a

familiar workplace or residence, and the size of the firm in question. It is more useful, however, for most economic problems to draw up a hypothetical curve analogous to the demand curves which represent employer expectations. These expectations will be derived in part from past experience, and therefore many of the elements which would determine the shape of the objective supply curve will enter into the employer's estimation of the shape of the supply curve of labor as he imagines it to be.

Labor Supply to a Large Firm

Because the supply curve of labor to the individual firm reflects the estimates of the individual employer, its slope will depend upon the size of the particular firm involved. A very large firm may have to recognize that any attempt by it to obtain more labor is likely to affect the prevailing wage rate in the locality. In order to obtain 1,000 more workers in a local labor market where there may be only 10,000 qualified workers available in all, a large firm will have to raise wage rates sufficiently to induce workers to leave other jobs. Workers will be reluctant to leave jobs in other firms without such an inducement, since by leaving their current employment they are likely to lose seniority rights and preferential status with regard to future promotion, health benefits, pensions, and so forth. But when the large firm offers higher wages to attract additional workers, this is likely to produce an increase in wage rates in the community generally, since other employers will also find it necessary to raise wages in order to induce employees to remain. The large firm is thus placed in such a position that any increase in rates it may offer to attract additional workers will likewise have to be offered to all employees already on its own payroll; for if other employers raise rates in retaliation, the large firm would not be able to hold its own employees at lower rates. Moreover, if the workers in the large firm are organized, the union will undoubtedly require uniformity of pay among employees of the same skill. Even if the plant were unorganized, management would probably consider it impracticable from the point of view of employee morale to raise rates for new employees without making a corresponding adjustment in the rates of old employees.

The result in such circumstances is that the addition to the total labor cost of the firm incidental to the employment of an additional worker will exceed the direct labor cost or wage paid to that man. In technical language, this means that the marginal cost of labor (i.e., the addition to the total cost of labor attributable to the addition of one more unit of labor) will exceed the supply price of labor (i.e., the wage offered to the additional worker). Assume that the going rate for labor in the

firm is 80 cents an hour and that 100 men are employed at that wage. In order to attract additional workers, the wage paid to new workers has to be raised to \$1. The supply price of additional labor as indicated by the labor supply curve therefore will be \$1. But if, as a result of this rise in the wage, all workers already on the payroll have to be given an increase from 80 cents to \$1 an hour, the additional cost of \$21 ($100 \times \$1.00 + \$1.00 - \80.00) attributable to hiring an additional worker will be substantially in excess of his wage (\$1).

Labor Supply to a Small Firm

The small firm will tend to view its supply curve of labor as being perfectly "elastic" over the relevant range—that is, the employer considers that he can obtain all the additional workers he may need without raising wages. His demand is so small relative to the total supply of workers available that his need for additional workers will not affect wage rates generally. This condition of perfect elasticity may also typify the supply curve for labor in a large firm in times of substantial unemployment. However, the supply curve of the small firm is likely to be perfectly elastic even if there is full employment. For even under condition of full employment, there are some workers leaving other employment for one reason or another, and the small firm may figure it can satisfy its needs from this pool of workers without the necessity of paying higher wages to draw men away from other firms. Consequently, if the small firm had been paying 80 cents an hour to its employees, it estimates that it can get additional workers for 80 cents, and therefore the marginal cost of the additional labor and its supply price or wage will be the same. The fact that the supply curve for labor to the small firm will tend to be perfectly elastic, while the supply curve to the large firm is more likely to be less than perfectly elastic, influences their respective employment policies. This problem will receive attention in Chapter 10 dealing with the demand for labor.

Causes of Rising Labor Supply Curve

Perhaps the most common cause of a rising supply curve for labor is the need for paying higher wages in order to attract workers away from other firms. As we have seen, in so far as this is the reason for the lack of perfect elasticity in the supply curve, it is more likely to be characteristic of a large than a small firm. But there are other conditions which can produce a rising supply curve for labor, and these are to be found in large and small firms alike. For example, an employer may have to pay penalty rates for overtime if he wishes to get more hours out of

his existing labor force. Additional units of labor time have to be remunerated at a higher price which means that the supply curve for labor to the firm is rising. Another condition which will produce a rising supply curve for labor is a scarcity of qualified workers. If additional workers can be obtained at the prevailing wage, but these workers are less efficient, the firm is, in effect, paying an increased price per "efficiency unit." A further possible reason for a rising labor supply curve is increasing "fringe" expenses made necessary by employment of additional workers. For example, if the only additional workers available are women, the employer may be compelled to expend funds upon separate lavatory facilities, restrooms, and so forth. The result will be that the marginal cost of employing these additional workers will exceed the wage paid to them.

Effect of Union Organization on Supply Curve

Union contracts customarily fix the wage rates for particular types of labor for a given period of time, usually a year. Once the rate is fixed in the contract, the employer is obligated to pay it regardless of the amount of labor he employs. Thus theoretically a union contract creates a perfectly elastic supply curve for labor.

In practice, however, the results are sometimes different. In a tight labor market, the employer may find that even with a union contract the only way to get more labor is to hire substandard workers and pay them the union rate or to work more overtime. In both cases, his supply curve of labor would in effect be rising: in the former case, because he has to pay more for less efficient labor; in the latter case, because the additional hours worked would have to be compensated at premium rates. On the other hand, in times of business depression, the employer may find that the union will insist on maintaining rates in the contract but will acquiesce in actual cuts below the contract rate. If the employer reduces employment, he thereby increases competition for the remaining jobs and is likely to find that the fewer workers he needs the lower the wage he will pay—indicating a sloping (or rising) supply curve of labor. Unions have, however, reduced the tendency for competitive wage cutting among workers which characterizes an unorganized labor market, and to that extent they have contributed to a greater elasticity in the labor supply curve.

THE SUPPLY CURVE OF LABOR TO AN INDUSTRY

The elasticity of supply of labor to an industry will depend primarily upon the mobility of workers who can be drawn into this industry from other industries. Because most skills in modern industry can be

fairly quickly acquired, an industry can ordinarily draw workers away from other industries if it offers sufficient inducement in the form of higher wages. The supply curve of labor for an industry will ordinarily be more elastic than the supply curve for labor in a given locality, because there will be less resistance to the movement of workers away from industry to industry within a given locality than there will be to movement away from, or into, the locality. The supply curve of labor for an industry will ordinarily be more elastic than the supply curve of labor for the whole economy, because it will be easier to induce employees to leave other industries to work in this particular industry than it will be to induce additional men, women, and children who are not normally members of the labor force to enter the labor market.

The supply curve of labor for an industry will be of zero elasticity—i.e., more workers would not be attracted to the industry no matter how high a wage was offered—only in the rare case when the industry uses a type of highly skilled labor which is not employed by other industries and when the skill is not one which can be easily acquired in a short period. It should be observed that even if the elasticity of labor supply to a particular industry was zero, an individual employer in such an industry might still imagine that the supply curve of labor to his firm was perfectly elastic. He might calculate that even though the industry as a whole could not obtain more workers, his own needs were so small relative to the amount of labor available to the industry that he would be able to attract a few additional workers without being compelled to offer a higher wage.

THE SUPPLY CURVE OF LABOR TO A LOCALITY

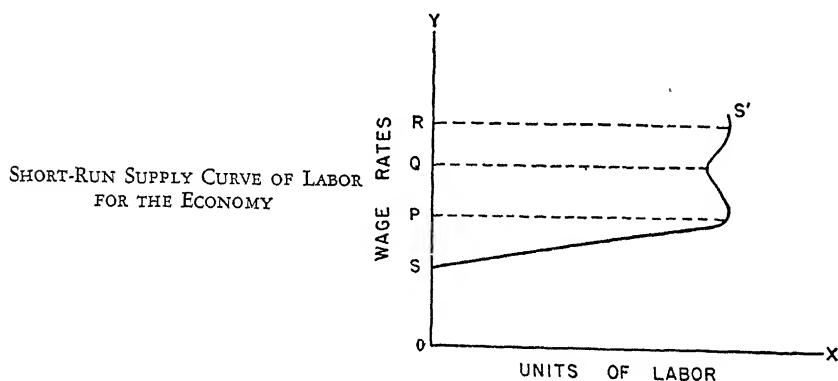
The slope of the supply curve of labor to a locality will depend in large measure upon the nature and location of the locality in question. If a shortage of labor were to develop in New York City, additional workers would be attracted from all over the country because of the advantages (other than the job opportunity) which New York has to offer. On the other hand, if a labor shortage were to develop in a little mill town in a backwoods region, even a very high wage rate would not induce many workers to migrate there, leaving their present homes and occupation.

Many of the characteristics of the supply curve of labor to a locality are also true of the supply curve of labor to the economy as a whole, and therefore these aspects can be conveniently considered together in the discussion below.

THE SUPPLY CURVE OF LABOR FOR THE ECONOMY

The short-run supply of labor for the economy as a whole is likely to be somewhat inelastic above the prevailing wage. That is, a rise in the rate of wage offered will not substantially increase the number of workers available. As soon as all average workmen are employed, the amount of labor supplied can be increased only by bringing in submarginal workers, or people who are not ordinarily part of the labor force—such as women, youths, and older men. The additions which can be expected from these sources in peacetime, within normal wage ranges, are not very large. During World War II, patriotism and the lure of very high wages did attract many of these groups into the labor market. Indeed, the degree of expansion in the labor force for the economy as a whole was surprising. Yet because of the relative immobility of labor, bottlenecks continued to develop in particular areas which were unable to attract sufficient labor despite the attraction of high wages. In other words, the

FIGURE 15



elasticity of labor supply was greater for the economy as a whole than it was for particular localities. Under ordinary circumstances, however, the contrary would be expected. The elasticity of labor supply in a particular locality depends on the mobility of labor both in and out of that locality and in and out of the labor force, while the elasticity of labor supply for the economy as a whole depends only upon the latter—the movement of particular groups of labor in and out of the civilian labor force.

In Figure 15 the prevailing wage rate is indicated along the Y-axis, while units of labor supplied are measured along the X-axis. The curve

lettered SS' represents an approximation to the short-run supply curve of labor for the economy in normal times.

If we assume that wage rate OP is a bare subsistence wage, then below that rate, workers will not be strong enough to work as many hours or in as great a number as at wage OP , and the supply curve will therefore reflect this diminution in the number of units of labor supplied by sloping sharply to the left. At and slightly above wage OP , we may assume earnings are very low relative to the standard of living, and as a consequence, workers with families will be compelled to send their children to work at an early age. Also many women will have to work at this low wage in order to help their husbands support their families. As the wage rate is raised to a more satisfactory level, men are better able to maintain their families on their own wages. Thus, at a wage of OQ , earnings of the family breadwinner will be sufficient so that children can remain in school for more extended education, and women can remain in the home. Consequently, the amount of labor offered on the market will tend to diminish, and the supply curve will slope to the left. As the wage becomes very high—as was the case during the war years—women and children will again be induced to enter the labor market. Youths will put off entering college for a few years in order to “cash in” on the high wages. Older men who were ready to retire will postpone the event in order to enlarge their net eggs. Therefore, the supply curve will again slope to the right, as is indicated at wage OR . But, again, when the wage becomes extremely high, the man of the family will prefer to send his children to school and college, and he himself will be less inclined to work long hours. As a result, there is likely to be a diminution in the amount of labor supplied, and the supply curve will slope backward to the left.

The above analysis of the behavior of the supply of labor at high wages is purely speculative. A rise in wage rates invokes conflicting responses from various groups in the population. For example, a rise in wages may enable many workers to save more and thus retire earlier, but on the other hand, it may induce men in retirement to enter the labor force for a few years in order to augment their savings. One thing, however, seems probable: above the rate at which most regular members of the labor force are willing to seek employment, the supply curve of labor for the economy under peacetime conditions tends to be inelastic.

Hours of Work

The slope of the short-run supply curve of labor will depend, in part, upon the relationship between the rate of wages and the number

of hours which employees are willing to work. The precise nature of this relationship has been the subject of considerable controversy. Assumptions as to its nature have had an important influence upon public policy. For example, mercantilist theorists in England in the seventeenth century believed that a rise in real wages would be detrimental to the welfare of the nation because it would decrease the number of hours that laborers would be willing to work. They reasoned that wage earners would work only sufficient hours to maintain their existing standard of living. Consequently, a rise in wages would reduce the amount of work done and would, therefore, have a detrimental effect on the productiveness of the nation.

By contrast, our war wage policy was based on the premise that employees would work longer hours if they were paid higher wages. Industrial employees worked, on the average, five more hours a week in 1943 than in early 1940 when the defense program began. Moreover, payment of time and a half for hours worked in excess of a normal 40-hour week has become standard industrial practice and has been codified in the Fair Labor Standards Act, which requires such overtime rates be paid all employees covered by the Act. Premium payments for hours worked in excess of the normal workweek are intended to compensate workers for the additional burden involved in working longer hours. A longer workday or workweek not only spells greater fatigue for the worker but also means that he will have less time to devote to his family, recreation, education, and other pursuits. It is understandable, therefore, why the average employee will work additional hours only if he is remunerated at a higher rate.

But while employees normally will only work additional hours if they are paid a higher wage, a higher wage may itself make employees less willing to work additional hours! Indeed, in some instances, a higher rate of wages may actually induce them to curtail the amount of time which they are willing to spend on the job. Suppose John Doe has been working 48 hours a week as a carpenter at a wage rate of \$2.50 an hour. Now his union succeeds in obtaining successive wage increases which bring his wage up to \$3.00 an hour, or \$144.00 for a 48-hour week. At this higher income, Doe may now find he can afford to buy an automobile or a set of golf clubs. And once he makes such purchases, he will want time to use them. Leisure time now becomes of increasing importance to him. As a consequence, he may seek union pressure to gain a reduction in hours of work, or he may find excuses for not showing up at work. In other words, in the case of John Doe, carpenter, when wages

have reached a certain level, further increases in wages above that level will be accompanied by a reduction in the number of hours of work offered to employers. In the general case, whether workers will be willing to work longer hours at a higher rate of pay will depend upon the choice which each worker makes between leisure and real income.

CHANGE IN EFFICIENCY

The supply of labor can also be varied by a change in efficiency of workers. Just as an increase in wage rates may increase the amount of labor supplied by inducing additional workers to enter the market, so an increase in wage rates may increase the efficiency of a given work force. When wages are at a very low level, an increase in wages will tend to improve efficiency by contributing to the physical well-being of the workers. Workers who are well fed and afforded proper housing facilities are capable of putting forth more effort than employees whose incomes are so low that they cannot properly provide for these basic needs. However, once wage rates reach a level at which the worker can maintain a satisfactory standard of living, it is doubtful whether further wage increases have much effect on efficiency solely by reason of their reaction on physical well-being.

However, without regard to possible improvement in physical condition, a rise in wages may induce employees to work harder. A positive relation between wage increases and increased effort is more likely to be found in piece-rate industries than in industries where payment is by the hour. If the piece rate is raised, the worker can directly increase his take-home pay by producing more units of product, whereas in an industry where payment is by the hour, the worker is likely to feel that his increased effort would simply increase the employer's profit without any direct immediate benefit to himself. Thus, it is principally in industries using incentive-pay plans that variations in efficiency are likely to have any close relationship to changes in wage rates. Approximately 30 per cent of the plant workers in manufacturing industries are paid on an incentive basis.

On the whole, under modern industrial conditions in a high-wage economy, wage changes probably have comparatively little effect upon worker efficiency. Because of the high degree of mechanization in American industry, the speed of the production line, rather than individual worker effort, is the controlling determinant of labor efficiency.

LONG-RUN SUPPLY OF LABOR

Long-run supply is affected by all the factors operative in the short run plus the additional element of population growth. Population growth involves the relationship between birth and death rates, on the one hand, and immigration and emigration rates, on the other.

The classical economists viewed the long-run supply of labor as highly flexible. They believed that labor supply adjusted itself to "the natural price of labor"—i.e., the level of real wages which was necessary "to enable laborers one with another to subsist and to perpetuate their race without increase or diminution."² This wage was conceived of as an equilibrium rate. If real wages rose above this subsistence level, births would increase, deaths would decrease, population would consequently expand, and with an unchanged demand for labor, wage rates would necessarily fall. On the other hand, a fall in wage rates below the subsistence level would produce an increase in deaths and a decrease in births. Marriages would be postponed, and married persons would delay having children. Consequently, the supply of labor would decline below the equilibrium level with the result that wage rates would be bid up to the "natural" wage.

The theory was phrased in terms of a subsistence wage because of the belief, then current, that population tended to increase faster than the means of subsistence. Population was thought to double itself every 25 years—thus increasing at a geometrical rate—while food production increased only in an arithmetical ratio. However, population was prevented from getting too far out of line with subsistence by certain "positive checks," such as vice, pestilence, war, and famine, and "preventive checks," such as postponement of marriage.

Modern population theorists look for no such geometrical increase in population growth. On the contrary, the experience of most of the older countries in Europe whose populations have neared stability indicates that the real problem may be one of stimulating population growth rather than retarding it. It has been suggested by one writer³ that the rate of population growth can be represented by a logistic curve—that is, populations grow first at an increasing rate, then at a decreasing rate, finally approach an asymptote, and may eventually decline. The reason

² D. Ricardo, *Principles of Political Economy and Taxation*, Gonner ed. (London: George Bell & Sons, 1913), p. 70.

³ R. Pearl, *Biology of Population Growth* (New York: Alfred A. Knopf, Inc., 1925), pp. 11–24, 45–130.

suggested for this phenomenon is that increasing density of population lessens fertility⁴ and therefore reduces the birth rate. This explanation, however, disregards the observed fact that the most densely populated sections of most cities also have the highest birth rates.

Whatever may be the cause for the retardation of population growth in other countries of the world, the fact remains that the trend toward retardation of such growth in the United States has been abruptly reversed in recent years. The rate of increase in population growth in this country between 1940 and 1950 was twice the rate of the 1930's.⁵ In September, 1946, the United States Bureau of Census estimated that there would be an increase in population of 4.6 million in the 4 years ending June 30, 1950. The actual increase was more than twice as large.⁶ Population growth has been running away from the forecasters! So great is the uncertainty now as to how fast our population will grow that the Bureau of Census estimate made in 1950 for the year 1960 was stated in terms of a range of almost 20 million—from a possible low of 161 million to a high of 180 million!⁷ And estimates for 1975 range from about 218 million to as much as 228 million.

In February, 1957, the population of the United States as estimated by the Bureau of the Census passed the 170 million mark. On the average there is a birth in the United States every 8 seconds, a death every 22 seconds. Counting the arrival of immigrants (one every 2 minutes) and the departure of emigrants (one every 24 minutes), the population registers a net increase of one every 12 seconds. Figure 16 shows the birth and death rates of the United States and selected foreign countries in 1956. While not immediately apparent from Figure 16, the net rate of population growth in the United States is actually higher than in India, because of the high death rate in the latter country.

Contributing factors in the great upsurge of population have been some increase in immigration, deaths below the number anticipated, and—most important of all—a bumper crop of babies! In 1947, nearly 4 million babies were born in this country. This was the largest number of babies born in a single year in the United States in the history of the nation—and 1957 beat that record. Furthermore, in recent years there is evidence that the number of children per family is increasing. Couples whose parents had only two children are now having three and four

⁴ *Ibid.*, p. 155.

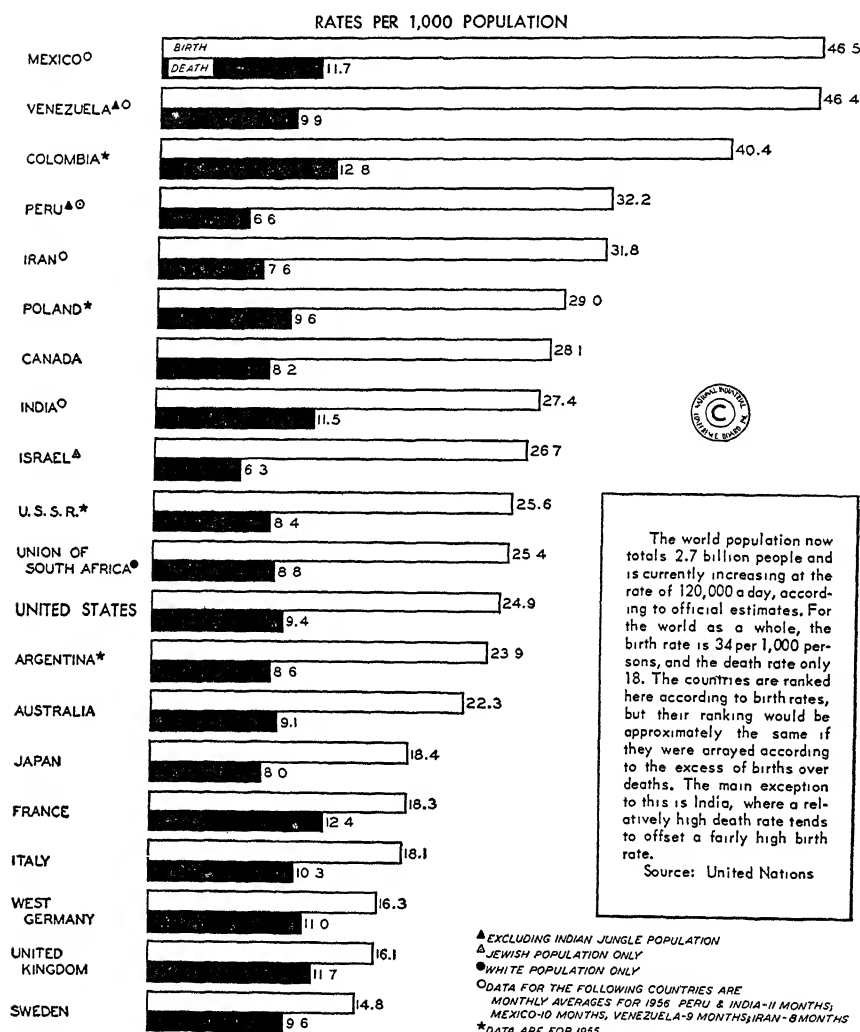
⁵ Dennis H. Wrong, "The Stork Surprises the Demographers," *Commentary*, Vol. XIV, No. 4 (October, 1952), p. 376.

⁶ Joseph S. Davis, "Our Changed Population Outlook and Its Significance," *American Economic Review*, Vol. XLII (June, 1952), pp. 308-9.

⁷ Wrong, *op. cit.*, p. 381.

FIGURE 16

BIRTH AND DEATH RATES, UNITED STATES AND SELECTED FOREIGN COUNTRIES, 1956



Copyright, 1957, by The Conference Board, 460 Park Avenue, New York 22, N.Y.
 Reprinted from *Road Maps of Industry*, No. 1125 (July 19, 1957).

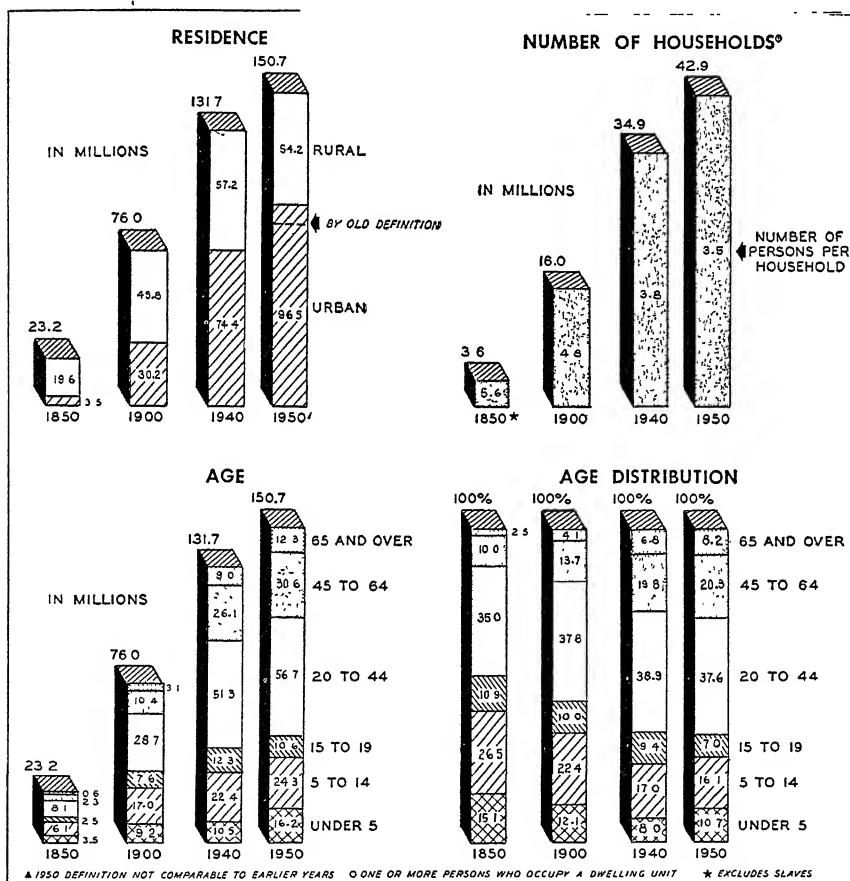
children. As a result, the population of this country has undergone a radical change in size and age composition and basis for future growth.

Why are people having more children than in prior years? It seems apparent that the answer cannot be found in fertility ratios and logistic curves which were relied on by prognosticators in past years. It must now be recognized that voluntary control of births is a major factor in deter-

mining population trends and that such control can be exercised in the direction of increasing families as well as decreasing them. During the 1930's, planned parenthood probably led to a diminution in the birth rate since people felt that they could not afford to raise large families in the dire economic circumstances of those years. However, attitudes changed with the prosperity of the 1940's, and the result was a specu-

FIGURE 17

UNITED STATES POPULATION—RESIDENCE, HOUSEHOLDS, AND AGE COMPOSITION



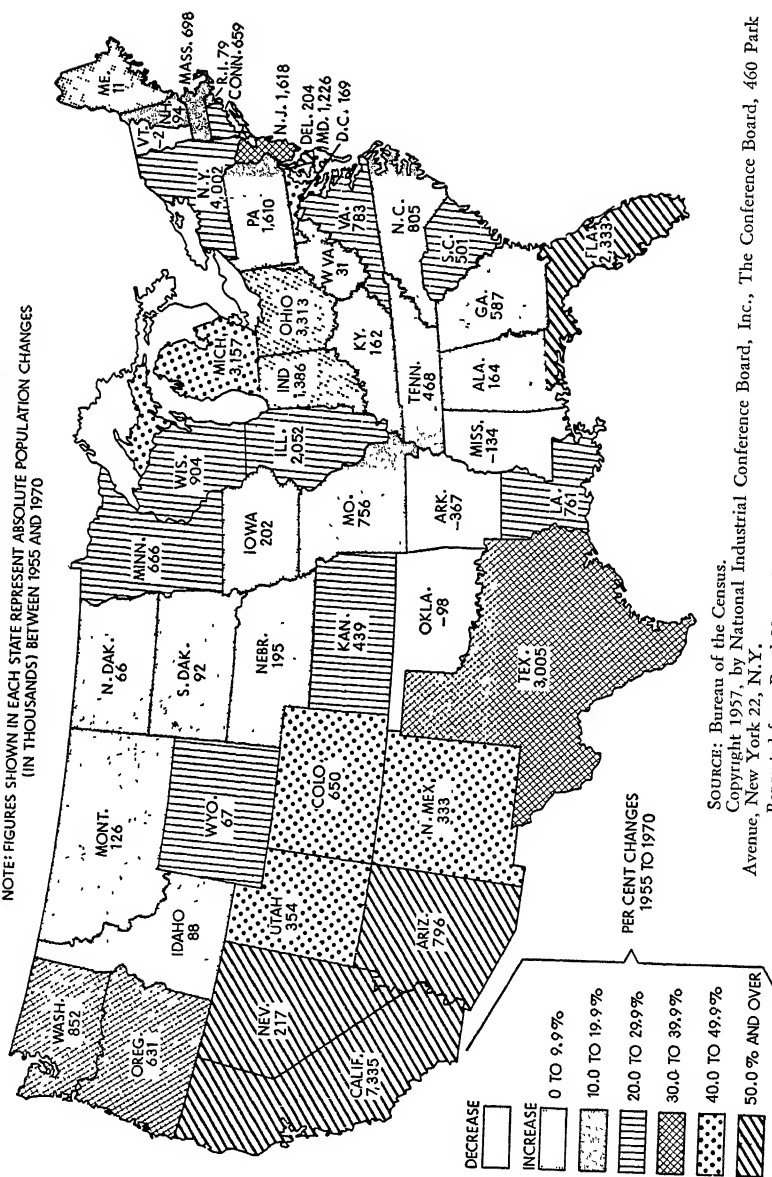
Two out of three persons are now classified as urban residents as against only one out of seven in 1850. The number of households has increased more proportionately than total population because of the trend toward smaller families. Within each bar showing the number of households the average number per household is also indicated. The greater proportion of older people today as contrasted to earlier periods is shown on the lower half of the chart.

SOURCE: Bureau of the Census.

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Reprinted from *Road Maps of Industry*, No. 892 (January 30, 1953).

FIGURE 18
POPULATION PROJECTIONS, BY STATE, 1955-70
NOTE: FIGURES SHOWN IN EACH STATE REPRESENT ABSOLUTE POPULATION CHANGES
(IN THOUSANDS) BETWEEN 1955 AND 1970



Source: Bureau of the Census.
Copyright 1957, by National Industrial Conference Board, Inc., The Conference Board, 460 Park Avenue, New York 22, N.Y.
Reprinted from *Road Maps of Industry*, No 1136 (October 4, 1957).

FIGURE 18—*Continued*

	1955	1970		1955	1970
	(Thousands)			(Thousands)	
Alabama	3,110	3,273	Nevada..	235	453
Arizona	1,007	1,802	New Hampshire	553	648
Arkansas	1,802	1,435	New Jersey..	5,324	6,942
California	12,961	20,296	New Mexico..	793	1,126
Colorado.....	1,547	2,197	New York	16,021	20,023
Connecticut.....	2,200	2,859	North Carolina	4,344	5,149
Delaware.....	390	593	North Dakota	643	710
District of Columbia.....	857	1,025	Ohio	8,945	12,258
Florida	3,580	5,912	Oklahoma	2,210	2,112
Georgia	3,662	4,249	Oregon	1,685	2,317
Idaho.....	612	700	Pennsylvania	10,898	12,508
Illinois.....	9,301	11,353	Rhode Island.....	817	896
Indiana	4,329	5,715	South Carolina	2,308	2,809
Iowa	2,671	2,874	South Dakota	683	776
Kansas.....	2,060	2,498	Tennessee	3,414	3,883
Kentucky.....	3,011	3,172	Texas.....	8,748	11,752
Louisiana	2,934	3,695	Utah	797	1,151
Maine.....	906	916	Vermont.....	370	368
Maryland.....	2,744	3,970	Virginia.....	3,579	4,362
Massachusetts ..	4,773	5,471	Washington.....	2,607	3,459
Michigan.....	7,326	10,483	West Virginia.....	1,984	2,015
Minnesota	3,190	3,856	Wisconsin	3,702	4,606
Mississippi.....	2,133	1,999	Wyoming	312	379
Missouri	4,201	4,957			
Montana.....	629	755			
Nebraska.....	1,394	1,590	United States.....	164,303	208,346

The figures shown above represent the civilian population plus the armed forces stationed in each area. Armed forces overseas are excluded. These population figures are not intended to be predictions but projections based upon assumptions of future changes in the components of population change. Data for 1955 are current estimates of the Census Bureau.

The series shown above for 1970 is a new series based upon the following assumptions:

1. Migration — 1950-55 levels are assumed to prevail until 1960, then, those levels are assumed to change linearly so as to equal the 1940-55 levels by 1970-75
2. Fertility — 1954-55 rates prevail until 1960, then, those rates decline linearly to 1950-53 levels by 1970-75. State rates were based on national rates
3. Mortality — Projections are tied in with unpublished United States mortality rates furnished by the Social Security Administration.

lar upturn in the birth rate. It is quite possible, therefore, that the birth rate will in the future be influenced to a substantial degree by fluctuations in wages and earnings which occur over the course of the business cycle.

The great increase in the number of births in the last decade will—regardless of whether or not the present rate is maintained in the immediate future—leave its imprint on population trends in years to come. Thus, in the 1970's there will be another great upsurge of population growth as the girl babies of the 1950's reach womanhood and bear children. Birth trends do not immediately affect the labor market, but they may have a profound effect years later. An illustration of this is the present shortage of new entrants into the labor force. Figure 17 indicates that only 7 per cent of the population was aged 15-19 years in 1950, whereas

9.4 per cent was included in this age group in 1940. This reduction in new entrants—which has been further aggravated by the requirements of the military services for young men—has helped to keep labor in “short supply.” It is, in turn, a reflection of the drop in the birth date which occurred in the depression years of the 1930’s. In 1954, fewer persons celebrated their twenty-first birthdays than during any year in the past four decades. During the next 8 years, total population will increase at about twice the rate of increase of the labor force. In the 1960’s, however, the situation will begin to change and the number of persons in the 15–19-year category will greatly increase due to the sharp rise in births in the 1940’s. By 1970 a gain of some 18 per cent in the labor force is foreseen by the Census Bureau, while total population will have increased 43 per cent.⁸ Figure 18 shows how this population increase will be distributed throughout the country.

SUMMARY

We have seen how supply is related to wage rates and have considered the meaning and content of labor supply from the point of view of the firm, the industry, and the economy. In the next chapter we shall consider the other side of the picture—the demand for labor. After we have explored thoroughly both the demand and supply for labor and their relationship to wage levels and employment, we shall be prepared in Chapter 11 to tackle the problem of wage determination as it occurs in the labor market.

QUESTIONS FOR DISCUSSION

1. Discuss how recent changes in population growth will affect labor supply in year to come.
2. Under what circumstances will the supply curve of labor to a firm be elastic? Inelastic? Draw a supply curve which is perfectly elastic. Draw a supply curve which is less than perfectly elastic.
3. Discuss the difference between a change in the supply of labor and a change in the amount of labor supplied. What circumstances are likely to cause a change of the former type? Of the latter?

SUGGESTIONS FOR FURTHER READING

Hicks, J. R. *The Theory of Wages*, chap. v, pp. 89–111. New York: Peter Smith, 1948.

An analysis of factors governing the individual supply of labor.

⁸ *Chain Store Age*, January, 1957, p. 191.

REYNOLDS, LLOYD G. "The Supply of Labor to the Firm," *Quarterly Journal of Economics*, Vol. LX (May, 1946), pp. 390-411.

A theoretical analysis of the basis for a rising supply curve for labor.

U.S. NEWS AND WORLD REPORT. "Where Will United States Put 60 Million More People?" August 9, 1957, pp. 46-54.

An up-to-date discussion of the population increase potential and the areas in which it may be distributed.

Chapter 10

THE DEMAND FOR LABOR

During the course of a year, at least 6 million enterprises—3 million farms and as many nonagricultural establishments—use some hired labor. How do these employers decide how much labor to employ and what price to pay for it? What determines whether the employer will hire more men or use machines to perform a particular job? These are problems relating to the demand for labor which we shall consider in the following discussion.

In examining the demand for labor, we shall consider in some detail a theory known as the marginal-productivity theory, which attempts to explain the determination of the demand for labor. This theory is widely held by economic theoreticians, but in recent years it has been attacked as unrealistic by a number of labor economists. Despite such criticism, the marginal-productivity theory is still a doctrine to be reckoned with in any study of the functioning of the labor market. It has demonstrated remarkable flexibility, and, as will be pointed out in the following discussion, its advocates claim that it is quite compatible with some of the newer theories of wage determination which emphasize the bargaining aspect in wage-employment relationships. In this chapter we shall consider some of the merits and shortcomings of this theory and compare it with other theories which seek to explain the demand for labor.

THE WAGES-FUND THEORY

One of the earliest theories which sought to explain the demand for labor was the so-called “wages-fund” theory which became popular in the latter part of the eighteenth century and the first part of the nineteenth century in England and France. Economists sought to explain the determination of the aggregate amount of funds which employers were prepared to expend in hiring labor. The amount of such funds available for paying wages and salaries was conceived of as substantially fixed at any

given period of time. In some discussions, this fund was referred to as "capital."

The wages-fund theory declared that the rate of wages is determined by the ratio between this "capital" and the working population. As explained by one famous exponent of the theory, "capital" meant circulating capital, and not even the whole of that but only the "part which is expended in the direct purchase of labor." "Wages not only depend upon the relative amount of capital and population, but cannot, under the rules of competition, be affected by anything else. Wages cannot rise but by an increase of the aggregate funds employed in hiring labourers, or a diminution in the number of competitors for hire; nor fall, except either by a diminution of the funds devoted to paying labour, or by an increase in the number of labourers to be paid."¹

The wages-fund theory was never clearly formulated, and there was much confusion as to the precise meaning of its terminology. Some formulations of the theory amounted to no more than a truism. To explain the rate of wages by saying that it is a result of the proportion between the number of employees and the amount expended upon their wages by employers is simply to state an arithmetical proposition, not an economic theory. On the other hand, to maintain that there is a definite and fixed fund which is available for payment of wages is clearly erroneous. Wages-fund theorists believed that the fund could not be expanded at the expense of profits—that diminution in profits would also reduce the wages fund. But this conclusion rested on the implicit assumption that employers earned only "normal profits," that is, profits at the minimum level necessary to induce an employer to stay in business. As long as there are surplus profits, so that a reduction in profit will not force employers out of business, the wages fund can be expanded by diverting profits to wage and salary payments.

Wages-fund theorists, in describing the fund as a "capital," frequently confused a capital composed of physical commodities with a money capital. Obviously, if the theory relies upon a fixed fund composed of so many dollars and cents available for expenditure upon labor, it can have no validity in a modern economy with an elastic credit system. The amount of funds available to pay the wages of labor can always be expanded by borrowing from banks if employers are willing to pay the market rate of interest.

But there is a sense in which the wages-fund theory has some validity. In our modern economy, most products are produced by "roundabout"

¹ J. S. Mill, *Principles of Political Economy*, Ashley (ed.) (London: Longmans, Green & Co., 1909), pp. 343-44.

methods of production. That is, the various commodities which constitute the real wage of labor represent the result of a long "period of production." An automobile may come off the production line at River Rouge every minute, but this rapid rate of output is made possible only by the fact that iron ore was mined years before and that steel was produced and fabricated into a huge factory and equipment capable of turning out automobiles on a mass-production basis. At any given moment, only a certain amount of finished products are emerging from the long production line represented by our entire productive process, just as on the production line at River Rouge most of the cars are in an incomplete stage with only a few ready to be driven off and purchased by consumers.

Workers do not want to buy iron ore, or automobile frames, with their wages. They want finished products, ready for use and consumption. If the flow of such finished products cannot be substantially increased in the short run, an increase in money wages paid to employees may simply produce a rise in prices without augmenting workers' real wages. Thus, in the short run, the rate of *real* wages is, to some extent, limited by the size of the "subsistence fund" representing the efforts of past labor which must support current labor until new products emerge from the productive process. However, such a wages fund is flexible over time. Contrary to the view of the proponents of the old wages-fund doctrine, an increase in the working population need not reduce the wage rate. On the contrary, when time has permitted the larger number of workers to be better organized so as to achieve a more efficient division of labor, there may be an increase in current output of finished goods which will raise the level of real wages.

The wages-fund theory was originally propounded as a means of explaining the determination of the level of real wages. In time, however, it was converted into a doctrine which could be used to prove that attempts by workers to raise their real wages were futile. This perversion of the doctrine ultimately led to its recantation by one of its famous proponents. He conceded that the wages fund was not fixed, that the whole of the capitalists' means was potentially capital (in the sense of advances to labor), and that the amount which actually became capital depended on capitalists' personal expenditures.²

THE MARGINAL-PRODUCTIVITY THEORY

Following the demise of the wages-fund doctrine, the marginal-productivity theory became the theory generally applied by economists to ex-

² The recantation was made by John Stuart Mill. See E. Roll, *A History of Economic Thought* (rev. ed.; New York: Prentice-Hall, Inc., 1942), p. 402.

plain the demand for labor. According to this theory, employers have a "demand for labor" just as they have a demand for coal, or electricity, or raw materials, or any other of the "means of production" which are required to manufacture a finished product. In considering labor as a "means of production," these economists do not, of course, overlook the fact that labor is highly personalized and, therefore, for many problems in the field of labor economics, cannot be treated as the equivalent of so many hours of "energy" on the same level as a lifeless thing like a machine. However, they contend that from the point of view of an employer seeking to operate his plant in the most efficient manner possible, the outlay for labor is a cost of production in the same sense as the outlay for electricity or raw materials.

No matter how understanding an employer may be in dealing with his personnel, the exigencies of market competition compel him to attempt to obtain maximum output at minimum cost from available factors of production. In so doing, the employer will find it advantageous to consider whether or not he would be better off if he used a little less labor and more machinery, or perhaps more labor and wasted less material, and so on. Thus, in the employer's calculations, labor becomes merely one of the many factors which can be combined in various proportions to yield varying amounts of physical output.

What determines an employer's demand for labor, according to this theory? Marginal-productivity theorists point out that an employer's demand for labor is obviously not determined simply by the physical requirements for production in a given plant. Most plants in our country could physically turn out a larger quantity of goods than they do and could physically utilize larger work forces. The reason they do not do so must be because at some point it becomes unprofitable to produce a larger amount—either because costs rise or prices fall, or both. Therefore an employer's determination as to actual output must be made with an eye on revenue and costs. Likewise, an employer's utilization of labor must be determined by weighing the cost of employing additional labor against the contribution which the added labor is expected to make to the revenue of the firm.

Of course, any such determination made by employers must of necessity be very rough and approximate. The average employer cannot estimate accurately the marginal contribution to revenue which will be made by employment of additional labor. Revenues depend not only upon output but also upon prices, and prices are, of course, subject to constant change and fluctuations in our economy. Nevertheless, these economists argue, as a general rule of economic conduct, it would seem logical to

assume that if employers wish to maximize their profits, they will hire additional labor only if its cost is less than the anticipated marginal contribution of the labor to the revenue of the firm.

This principle of weighing marginal revenue contributed by a factor against the added cost incurred through its use is the heart of marginal-productivity theory. The marginal-productivity theory is generally stated in the form of two propositions: (1) employers will not ordinarily pay labor (or any other factor of production) more than that factor adds to the revenue of the firm; and (2) the forces of competition tend to make employers pay labor (or any other factor) a wage (or price) approximately equal to the full value of its marginal contribution to the revenue of the firm, except in certain special circumstances which we shall consider at a later point in this discussion.

It is important to note that the theory states only a tendency. In a dynamic society such as ours, where prices are always changing, the contribution which employment of additional quantities of labor will make to the revenue of a firm is also subject to continual change. Employers, however, do not change wages or hire or fire workers every time they make a price change. Consequently, the most that can be expected is that whenever employers make adjustments in output, size of the plant, labor force, and capital equipment, they will do so with the objective in mind of attempting to secure as close an equivalence as possible between the "marginal cost" of a factor of production—that is, the additional cost incurred by employing an additional unit of a factor of production—and the marginal revenue product of the factor—that is, the addition to revenue of the firm attributable to employment of the additional unit of the factor.

The Role of Profit Maximization

The two propositions of the marginal-productivity theory stated above are simply logical deductions from a premise basic to the theory, namely, that businessmen normally seek to maximize profits. As we shall see later in this chapter, a businessman who finds that with a given amount of labor he is obtaining a marginal revenue product in excess of the marginal cost of labor can actually increase his profit by employing more labor until the marginal cost and marginal revenue product of labor are equated. Therefore, if businessmen are interested in maximizing profits and if they attempt to make estimates of cost and revenue of the marginal

type which we have considered, there would be some tendency for the wage of labor to approximate the marginal revenue product of labor in the particular firms in which it is employed.

Not all businessmen, however, are motivated by the desire to maximize profits. Recent studies have indicated that the desire for prestige, for power, and for security may be dominant motives in the minds of many employers. Such motives may frequently dictate a policy which is inconsistent with maximizing profit. For example, some businesses may expand and thereby add to their labor force, even though such additional expansion is unprofitable. The employer may recognize such expansion is uneconomic but may be motivated by the desire to operate the biggest company in the field, or to dominate a particular geographic area. Other employers may be unwilling to expand even though they could increase profits by such action. The reason may be that they prize security and liquidity, or perhaps they may simply have become satisfied that they have grown enough and are unwilling to assume the additional burdens and worries that are the concomitants of big business.

Sometimes, of course, the employer will pursue actions which from a short-run point of view do not maximize profits but which make good economic sense from a long-run point of view. For example, suppose there is a downturn in business and the employer must face the question whether or not to lay off certain employees. If prices for the employer's product have fallen, it is possible that the wage of these men will now exceed the marginal contribution which their services make to the revenue of the firm. Therefore from the point of view of maximizing short-run profits or minimizing losses, the employer would be expected to lay off these employees. If he chooses to keep them on the payroll, he may be motivated by personal relations with the employees, or a sense of community responsibility. On the other hand, he may also figure that if he lays off these men and later business picks up again, he may need these particular men and may find it difficult to rehire them, since they may have found employment elsewhere.

Employer motivation is complex. Marginal-productivity theorists concede that motives and objectives other than profit maximization influence employer behavior, but they contend nevertheless that the behavior of most employers can best be explained in terms of long-run profit maximization. Critics of the theory, however, take issue with this assumption and argue that noneconomic motivation is so common that a realistic theory cannot be based on profit maximization. Here is the first of the major cleavages between this theory and other theories of labor demand.

Long-Run Adjustments

The marginal-productivity theory is a theory of long-run tendencies. As we have already observed, employer behavior which appears uneconomic from the short-run point of view may actually be designed to maximize profits in the long run. Moreover, in the short run, employers cannot freely change the combination of the factors of production. Suppose an employer has been producing a product using ten men and a machine. If the price of labor doubles, he may find that he would be better off using half as much labor and a larger, more complicated machine. But it may be impracticable for him to junk his existing machine immediately, or possibly the larger machine cannot be accommodated in his existing plant. Consequently, several years may elapse before he is able to make the adjustment which the marginal-productivity theory states that he should make if he wishes to maximize profit.

DEMAND FOR LABOR IN THE INDIVIDUAL FIRM

The marginal-productivity theory may be considered from the point of view of the individual firm or of the economy as a whole; or, stated another way, marginal-productivity principles determine the nature of the demand curve for labor, and the demand curve for labor may be viewed from the point of view of the individual employer or of the economy as a whole. In the following discussion, we shall be concerned only with the application of marginal-productivity principles by the individual employer. At a later point in this chapter, we shall consider the problem of applying marginal-productivity principles to the economy as a whole.

In the context of individual firm analysis, the marginal contribution of a factor is determined by its effect on the *revenue* of the particular firm. If we say, as a paraphrase of the theory, that employers try to pay labor what it is "worth," the term *worth* must be understood in a strictly economic sense without any moral or social connotations. The advertising executive who thinks up new slogans for dog food has a high "worth" to his agency because his efforts add a lot to the revenue of the firm. The value of his "product" from the social point of view may be nil. The marginal-productivity theory was originally enunciated in terms of a theoretical economy in which perfect competition prevailed. In such a system, factors of production would tend to be allocated in a manner such that the optimum aggregate national product would be obtained, and the value of the marginal product of particular employees would be some

index of its social worth. This theoretical problem need not concern us, however, at this point. We know that our economy is not perfectly competitive nor is there such a tendency in that direction to warrant using perfect competition as a norm in our discussion.

Significance of Monopolistic Competition

In the following analysis we shall assume—what is a fact—that we have an economy characterized by “monopolistic competition.” In such an economy there is in each industry a number of firms each selling a product which is slightly differentiated from the other. Each producer is in competition with other producers, but to some extent he is a monopolist in his own little market. Hence the term “monopolistic competition.” If the individual producer raises his price, he does not lose all his customers because some customers still prefer his product and will pay the higher price. In other words, while there are competitive products, they are not perfect substitutes in the minds of consumers, and to the extent that such substitution is imperfect, the individual producer is somewhat in the position of a monopolist who can raise his price without losing customers because he has a monopoly of the product. Similarly, when the individual producer lowers his price, he increases his business but does not take away all his competitors’ business because some of their customers will remain loyal and buy their products despite this producer’s price reduction.

We may assume, therefore, that the average employer with whom we shall be concerned will, in estimating his labor requirements, have in mind the fact that additional units of his product can be sold only at a lower price which is required in order to take away some of the business from his monopolistic competitors and make it possible to market the larger volume. If additional output can be sold at a lower price, this will also mean that the marginal contribution to revenue made by additional employees will tend to decline. Therefore the more workers the employer hires, the less he can afford to pay to each additional worker. In geometric terms this means that the employer will have a downward sloping demand curve for labor.

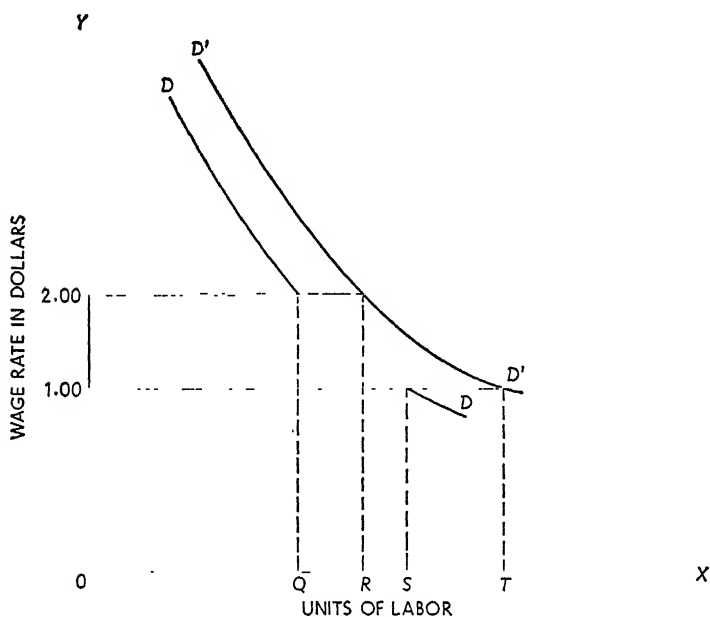
Geometry versus Reality

Of course, employers do not normally think in terms of geometrical curves. As a matter of fact, they usually would not even have sufficient data to plot a demand curve for labor if they wanted to! The concept of a demand curve for labor is simply an aid which helps economists to understand how employers make decisions involving the employment of labor. The employer must have some rough idea of the various wages he

would be willing to pay for varying amounts of labor based upon his estimates of the additional revenue which such labor could produce for him. The demand curve for labor is simply a geometric representation of this idea.

The demand curve for labor of a hypothetical employer is shown by line *DD* in Figure 19. The demand curve for labor shows the various amounts of labor which the employer would be willing to employ at various wage levels. The lower the wage level, the more labor the individual employer feels he can profitably employ. Thus at the wage of \$2.00, this

FIGURE 19
DEMAND CURVE FOR LABOR



employer estimates he could employ only *OQ* units of labor, whereas if the wage rate falls to \$1.00, he would employ *OS* units of labor. Such increases are referred to as changes in the quantity of labor demanded because they involve changes along a given demand curve. Sometimes, however, the entire demand curve for labor will shift. This may happen, for example, when there is an upturn in business, such as occurs during the business cycle. A shift in the demand curve for labor means that at every wage rate the employer is now willing to hire more labor than he was previously. For example, in Figure 19, if the demand curve shifts to position *D'D'*, then at the wage of \$2.00 the employer will demand *OR*

units of labor instead of the smaller amount OQ indicated by the previous position of the demand curve. This situation involves an *increase in the demand for labor*, whereas increased employment due to a reduction in wage rates is distinguished by economists as an *increase in the quantity of labor demanded*. A similar distinction in terminology was met in the last chapter in connection with changes in supply.

THE LAWS OF PRODUCTION

We have seen that in monopolistic competition the demand curve for labor is downward sloping because of conditions in the market for the employer's product. There is also another and more fundamental reason why the demand curve for labor has this shape. This is found in the so-called laws of production—the law of diminishing returns and the law of scale. These two laws would have the effect of producing a downward sloping demand curve for labor *even if the employer estimated that he could sell additional units* of his product with no reduction in price. These laws affect the amount of additional *physical* product which can be produced by adding additional amounts of one factor of production to other factors. They are laws of physical, not monetary, returns.

THE LAW OF DIMINISHING RETURNS

The law of diminishing returns is concerned with the effect on total output of adding successive amounts of one factor of production to another factor or group of factors which is held constant in amount. Thus we may wish to know the effect on total product of adding additional workers to assist in the cultivation of one acre of corn. Or we may wish to know the behavior of total output of shoes as the amount of capital per worker is increased. The universal rule in such cases is that, with a given state of technology, the application of successive units of *any* variable factor to another fixed factor will, after a certain point is reached, yield less than proportionate returns. Or to put the proposition a little differently, additional units of labor added to another factor, say, capital, will beyond a certain point (i.e., the point of diminishing returns) produce diminishing marginal increments in total physical product.

Significance for Marginal-Productivity Theory

This law of diminishing returns is of fundamental importance to marginal-productivity determination. Its relation to marginal-productivity theory can best be illustrated if, for the moment, we direct our attention exclusively to physical product. Suppose that additional units

of product can be sold at the same price so that the employer is concerned primarily with the changes in total physical product attributable to employment of additional labor. Suppose, further, that labor itself is paid in physical product rather than in money. Under these conditions, the marginal-productivity theory would say that there is a tendency for the wage of labor to equal the marginal physical product which it produces.

There could be no such tendency, however, if industry operated in a range of increasing, rather than diminishing, physical returns. This can be seen from the following example which illustrates production under increasing returns. If increasing returns prevail, the addition of more labor to a fixed amount of another factor will produce more than proportionate increases in total product with the result that the marginal physical product of labor will continually rise. The marginal physical product of labor is the increase in total product attributable to the addition of a unit of labor. Suppose that all workers are of equal ability (so that they have to be paid the same wage) and that employment of additional labor increases total product as follows:

Men	Total Product	Marginal Product
1.....	4	..
2.....	10	6
3.....	17	7
4.....	25	8

The addition of a fourth worker increases output by 8 units. But the employer could not afford to pay a wage rate equivalent to 8 units of product, since all workers have to be paid the same wage, and payment of an hourly wage of 8 units of output would involve a wage bill of 32 units, which is in excess of total product.

In practice, employers operate within the range of diminishing returns. Therefore, the marginal product of labor will be decreasing, not increasing, as in the above hypothetical example. In the following illustration, the addition of the fourth man increases total product from 14 to 17 units:

Men	Total Product	Marginal Product
1.....	4	..
2.....	10	6
3.....	14	4
4.....	17	3

The marginal physical product (i.e., the increase in total product attributable to the addition of the last unit of variable factor) of the fourth man is 3 units, and the employer therefore can profitably pay up to 3 units as his wage. Because of diminishing returns, the wage bill will not exhaust total product—the wage bill would be only 12, while the total product would be 17. Moreover, there would be a limit to the output of the firm—there would be no incentive to expand output beyond the point at which the marginal product of labor equaled its wage. The demand curve for labor under these circumstances would be downward sloping—even though prices were not affected by increasing output—simply because the marginal contribution to total physical product made by additional workers was declining, and therefore the wage which the employer could afford to pay for such additional labor would also decrease as employment rose.

THE LAW OF SCALE

The law of diminishing returns, as we have seen, is concerned with the effect upon total physical output of adding increasing amounts of variable factors to an unchanging amount of a fixed factor. The law of scale, on the other hand, concerns the effect upon total product of increasing *all* factors together in the same proportion. For example, if we double the amount of capital and the quantity of labor and the amount of land, will output likewise double? Will the increase in total product be greater or less than in proportion to the increase in the quantity of factors?

Significance for Marginal-Productivity Theory

Why is this problem relevant to marginal-productivity determination? The size of the marginal physical product contributed by a particular worker will depend upon the size of the establishment in which he is employed. Take the example of Jones, the shoemaker. If Jones is employed in an establishment having only ten employees, chances are that most of his work will be done by hand. Moreover, he will probably have to make the entire shoe himself, since the number of employees will be too small to permit efficient division of labor. However, as the size of the establishment grows, there will come a point—say, when a hundred men are employed—at which it will pay the employer to utilize expensive machinery designed to perform individual operations such as lasting, cutting, and so on. Moreover, the workers can be arranged in a production line, each worker performing only a specialized operation at which he soon becomes highly proficient.

As a result of the introduction of machinery and division of labor, efficiency of operation will increase. Consequently, the physical productivity of a worker in the large factory will be greater than the physical productivity of a worker in the small plant. Here we have a situation in which an increase in the amount of labor and capital produces a more than proportionate increase in total output. This consequence is fundamentally attributable to the fact that machinery can only be introduced in "chunks." A conveyor belt and production line cannot be advantageously used with only ten employees, and the small firm cannot use half a machine. As the size of a firm grows, various "indivisible" chunks of other factors become profitable to use, and such utilization, impracticable in a smaller plant, may produce a substantial improvement in efficiency.

However, if such improvement were a continuing possibility as a function of increasing scale, there would be no limit to the size of firms. Our economy would be composed of giant monopolies, each supreme in its own field. Obviously, this eventuality has not occurred. The reason is that as a firm grows in size, the problems of organization, supervision, and co-ordination grow in complexity. Management becomes farther and farther removed from actual operations as the hierarchy of minor officialdom grows. As a consequence, beyond a certain size—which varies by industry—inefficiency develops and the rate of increase in total product becomes less than proportionate to the increase in quantity of all factors used.

Another reason for the eventual decline in rate of growth of total output as size of firm grows is that beyond a certain point it is not possible to increase entrepreneurship in the same proportion as other factors. Men who can efficiently manage million-dollar enterprises are few and far between. Consequently, as existing management finds it must itself co-ordinate larger quantities of labor and capital, inefficiency develops. This is simply a reflection of the operation of the law of diminishing returns—increasing amounts of labor and capital added to the unchanging factor of entrepreneurship result in diminishing returns in terms of total output.

Thus the law of scale and the law of diminishing returns set important limitations on the proportion and amount of factors which will be used in individual firms. Were it not for the law of diminishing returns there would be no limit to the output of a firm; were it not for the law of scale there would be no limit to the amount of all factors which could profitably be combined under one management. These laws, therefore, play an important role in determining the physical environment in which labor will work and thereby influence the size of physical product which will be attributable to the efforts of particular workers.

MARGINAL-PRODUCTIVITY CALCULATIONS

Few employers ever heard of marginal productivity; yet they are called upon to apply the principles of this doctrine almost every day in the conduct of their business affairs. John Doe, a machine operator, applies to a broom factory for a job. Should the employer hire him or not? The mental calculation of the employer faced by this problem will in substance be no different from that which he would make in determining the desirability of undertaking any other type of acquisition for the plant. The question in each case is: will purchase of the additional unit or units of the productive resource increase the revenue of the firm by an amount in excess of the addition to cost incidental to its employment? If the addition promises to augment profits, so calculated, the resource will be acquired; if not, the opportunity to purchase will be foregone.

Approximate Nature of Calculation

Obviously, the calculation must ordinarily be approximate, and often highly conjectural. Determination of Doe's anticipated marginal contribution to the firm would be facilitated if three conditions were satisfied: (1) if his employment did not require use of additional material or capital so that his contribution would be net without deduction for incidental expenses; (2) if the increment in output attributable to his employment could be measured in distinct separable completed physical units; (3) if the price at which the increased output could be sold could be accurately forecast. In practice, these conditions are never realized, so that, at best, the employer's calculation of the marginal worth of an employee must remain in the realm of approximation.

In a Robinson Crusoe economy where Crusoe had merely to evaluate the worth of the services of one man Friday, the marginal product of labor could be determined with fair precision. In a typical modern factory, however, where thousands of employees, aided by complex machinery, together pool their efforts to produce a joint product, the contribution of the individual employee becomes indistinct. Nevertheless, employers must make some estimate of the worth of additional employees.

Sometimes the employer gets some help from industry averages supplied by his employers' association. Such statistics may show him what other firms pay for labor or what is regarded as a safe percentage for payroll in relation to sales. But in the final analysis, each employer must decide for himself, based upon his own peculiar circumstances, what the worth is to him of additional labor. Employers do make such estimates, since we know that employers do not go on hiring workers without limit.

Nature of Marginal-Productivity Calculations

Table 17 is intended to clarify and elaborate the nature of the short-hand calculation which the marginal-productivity theory assumes employers make in determining the volume of employment in a firm. Few employers would have available such a detailed schedule as is here assumed, but the detailed figures will serve to illustrate more clearly the basic principles involved in marginal-productivity determination.

Assume that our factory produces brooms and that the relationship between employment, physical product, and revenue is estimated by the employer to be as shown in Table 17. Consider first columns 1, 2, and 3 of Table 17. As additional units of labor are added to unchanging amounts of the other factors, the total physical product increases, at first more than in proportion to the increase in labor and subsequently less than in proportion to the increase in labor. Eventually as more and more labor was hired, total product might actually decrease. This might be attributable to the fact that with, say, 10 men and a limited amount of

TABLE 17
MARGINAL-PRODUCTIVITY CALCULATIONS

(1) Units of Labor	(2) Total Product	(3) Marginal Physical Product	(4) Price per Unit	(5) Value of Marginal Physical Product	(6) Total Revenue	(7) Marginal Revenue Product
1.....	20	20	5	100	100	100
2.....	50	30	4	120	200	100
3.....	70	20	3.5	70	245	45
4.....	85	15	3	45	255	10
5.....	95	10	2	20	190	-65
6.....	100	5	1	5	100	-90

machinery, the men would get in each other's way with the result that total output would be curtailed. The variation in total product and marginal physical product shown in the table reflects the operation of the law of diminishing returns. If labor was paid in brooms and the rate of wages established in the market was 16 brooms, this employer could afford to hire only 3 workers. With 3 workers on his force, the employer gets production of 70 brooms, the third employee having increased production by 20 brooms. But the addition of a fourth worker would increase output only to 85 brooms. Fifteen brooms is therefore the marginal physical product attributable to the fourth worker, i.e., it is the increment in total physical production attributable to the employment of an additional

unit of the variable factor. If wages are paid in brooms, the employer cannot afford to pay this man 16 brooms when he adds only 15 brooms to the output of the firm.

Value of the Marginal Physical Product of Labor

Since in a modern capitalistic economy labor is paid in money wages and not in physical product, employers must estimate the money value of the physical contribution made by additional units of labor. The value of the marginal physical product of labor is obtained by multiplying marginal physical product (col. 3) by price per unit of product (col. 4). This figure would be a fair index of the value to an employer of the additional output produced by additional units of labor if the additional output could be sold without any reduction in price as compared with a smaller output. In other words, if an employer assumed that he could market additional units of product at a constant price, he could afford to pay labor a wage just a trifle less than the price per unit of such additional output and still make a profit. This is the situation which exists in what economists call "perfect competition." In perfect competition, each firm is small and produces only a minor portion of the output in a particular industry. Furthermore, unlike monopolistic competition, the product of each firm in the industry is indistinguishable from the product of any other producer. As a consequence, the individual employer assumes that if he produces a little more, the addition to the total output of the entire industry will be so slight that it will not affect market price. This situation may exist in the case of farmers producing wheat. Each farmer feels that his output is so small relative to the total output of the industry that he can produce and sell almost any amount of wheat at the same price. In geometric terms, this would mean that the farmer assumes his demand curve for wheat is horizontal, if we were to plot price of product along the Y-axis and quantities expected to be sold along the X-axis. In perfect competition, the individual employer would hire workers until the wage was approximately equal to the value of marginal physical product added by the last worker hired.

The Marginal Revenue Product of Labor

However, under monopolistic competition, the value of the marginal physical product of labor is not a fair index of the value to an employer of the additional units produced by added labor because the additional output can be sold only at a lower price, and this lowers not only the price for the additional units but also the price for all other units of the firm's production. Therefore, we must determine what is the net

amount added to the revenue of the firm by the employment of the additional labor. This figure is supplied by the marginal revenue product (col. 7). The marginal revenue product of labor is calculated either by finding the difference between total revenue obtained with a given amount of labor and that obtained with a smaller amount of labor or by subtracting from the value of the marginal physical product the loss in revenue, if any, on units of product produced without use of the additional units of the factor, when the loss is caused by a fall in price because of the augmented output.

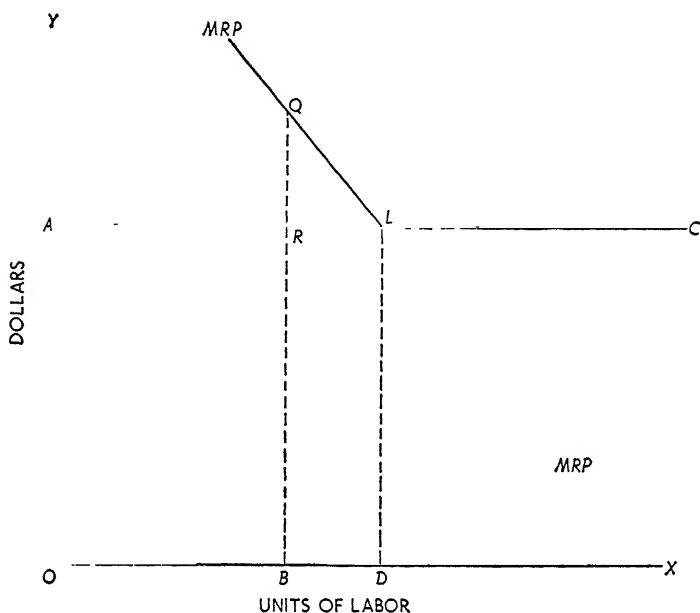
If the wage rate for broommakers were established in the market at \$30, this firm could afford to employ only three men. The marginal revenue product (col. 7) for the fourth man is only \$10. It would not be profitable for this firm to employ the fourth man since his employment would cost the firm more than he adds to revenue. The employment of the third worker results in production of 20 extra units which can be sold only by taking a reduction in price from \$4 to \$3.50. The value of the marginal physical product is \$70 (col. 4 multiplied by col. 3). But the reduced price is applicable as well to the 50 units which could have been produced without the extra man, and therefore the loss of revenue on these units of \$25 (50 multiplied by one half equals 25) must be subtracted from \$70, leaving \$45 as the marginal revenue attributable to use of the third worker. Thus it is apparent that in monopolistic competition a worker cannot be paid the value of his marginal physical product, since this would exceed the amount of his marginal revenue contribution to the firm. It is therefore with reference to the marginal revenue product of labor that the employer will make his employment decisions.

CONDITIONS OF PROFIT MAXIMIZATION IN THE INDIVIDUAL FIRM

The principles of marginal-productivity determination elucidated in the foregoing computations are illustrated in geometric form in Figure 20. The line marked *MRP* represents the marginal revenue product obtained from employment of varying amounts of labor. This curve therefore indicates the value to the employer of varying amounts of labor and is identical with his demand curve for labor. For *OB* units of labor, the estimated marginal revenue is *BQ*, and as more labor is employed the marginal revenue product falls so that for *OD* units of labor the marginal revenue product is equal to *DL*. Suppose now a wage for this type of labor is established in the market of *OA* dollars. Suppose further that the employer can obtain any number of men he needs at this same wage

FIGURE 20

PROFIT MAXIMIZATION IN THE INDIVIDUAL FIRM



level. The wage is therefore constant regardless of the number of units of labor employed. This circumstance is shown by the horizontal line AC . This line is called the supply curve of labor because it indicates the amount of labor that will be supplied at a given wage. It also indicates the average cost to the employer of hiring additional units of labor. Since in the present case it has been assumed that each additional unit of labor can be obtained with no increase in price, the average cost and the marginal cost of each unit of labor is identical. The line AC therefore represents to the employer both the average cost and marginal cost of hiring additional labor. At a later point in this discussion we shall find that under different circumstances the average cost and marginal cost of labor may diverge.

Determination of Optimum Employment

With a demand curve and supply curve for labor as shown in Figure 20, what amount of labor will yield maximum profits for the employer? Suppose he employs only OB units. For this amount, the marginal revenue product BQ is well above the cost RB , and it might therefore be thought that this amount would yield a maximum profit to the employer. But note that if the employer uses a little more labor, although marginal revenue product falls with each additional unit of labor utilized, he can neverthe-

less increase profits as long as the marginal revenue product of labor remains above its cost. This will be so until we come to the point of intersection of the marginal revenue curve and the wage. For any amount of labor less than OD the employer can increase his profit by using more labor, and for any amount of labor greater than OD the employer will be losing money since he will be paying labor in wages more than it produces for him in revenue.

The point of equality of marginal revenue product and wage is therefore the point of maximum profit for the employer. Under the assumed circumstances of a horizontal supply curve for labor, the employer who is interested in obtaining the largest profit will seek to utilize that amount of labor for which the marginal revenue product of the last worker employed is approximately equal to his wage. If the employer follows this rule, ordinarily a reduction of wage rates will induce him to increase employment of labor, while an increase in wage rates will induce him to curtail employment of labor. This reaction is to be expected, however, only with a given marginal revenue product curve. If there should be an increase in wage rates concurrently with an increase in demand for labor (i.e., a shift to the right of the entire demand curve for labor), then it is quite possible that the wage increase will not produce any reduction in employment and, indeed, may even be associated with an increase in employment. This is frequently the case, as we shall see in our discussion in later chapters of wage changes during the business cycle. Increases in wage rates usually occur in periods when business is booming and the demand for labor is increasing. In such circumstances, there is no immediate inducement for employers to curtail employment in response to the increased cost of labor. The marginal-productivity theory therefore is quite consistent with the observed pattern of wage-employment relationships which develops over the period of the business cycle.

We have seen that maximum profits are obtained by the employer if he attempts to hire an amount of labor such that the marginal revenue product of the last man hired will approximate his wage. This principle is applicable to all factors of production which the employer utilizes. The marginal-productivity theory assumes that wherever possible the employer will attempt to obtain maximum output at minimum cost. If he can do this by using more of one factor of production rather than another he will do so. The decisive consideration in each case is the contribution to revenues in comparison with costs. For maximum profits, the employer should utilize the various factors of production so that the ratio of the marginal revenue product of each factor to its cost will equal the ratio of mar-

ginal revenue product to cost of other factors. Of course, if the employer is able to use an amount of each factor such that its marginal revenue product is equal to its cost, then automatically the former condition of equality of ratios of respective marginal revenue products and costs will be satisfied.

EXPLOITATION OF LABOR³

The marginal-productivity theory assumes that there is a long-run tendency toward equality between the wage of labor and its marginal revenue product in the individual firm. Normally the employer obtains his maximum profit by seeking to achieve this position. As we have seen, if the wage is below the marginal revenue product, it will pay him to increase output and employment to a point where this discrepancy is eliminated and the equality between wage and marginal revenue product is established. However, the marginal-productivity theory recognizes that there may be certain situations in which a discrepancy can develop between marginal revenue product and wage which will be profitable for the employer to maintain, so that there will be no tendency to the normal equilibrium position of equality of wage and marginal revenue product. These exceptions from the general rule are referred to by economists as cases of exploitation of labor.

The term "exploitation" is used by economists simply to denote a condition in which labor will be paid a wage less than its marginal revenue product. It is a technical definition without social connotations. It has no necessary connection with the level of wage rates. The distressingly low rates paid to labor in some southern industries may present an acute labor problem, but the low rate is not itself any evidence of "exploitation" as the economist uses that term. Indeed, we shall see that exploitation of labor, as we have defined it, is as likely to be encountered where wages are high as where they are low.

Rising Supply Curve of Labor

Perhaps the most common source of exploitation is the lack of perfect elasticity in the supply curve for labor. In the preceding discussion it was assumed that the supply curve for labor was horizontal (i.e., perfectly elastic), but frequently this will not be the case. For example, a firm may require such a substantial proportion of a particular type of

³ For a detailed discussion of this subject, the reader is referred to G. F. Bloom, "A Reconsideration of the Theory of Exploitation," *Quarterly Journal of Economics*, Vol. LV (1941), pp. 413-42.

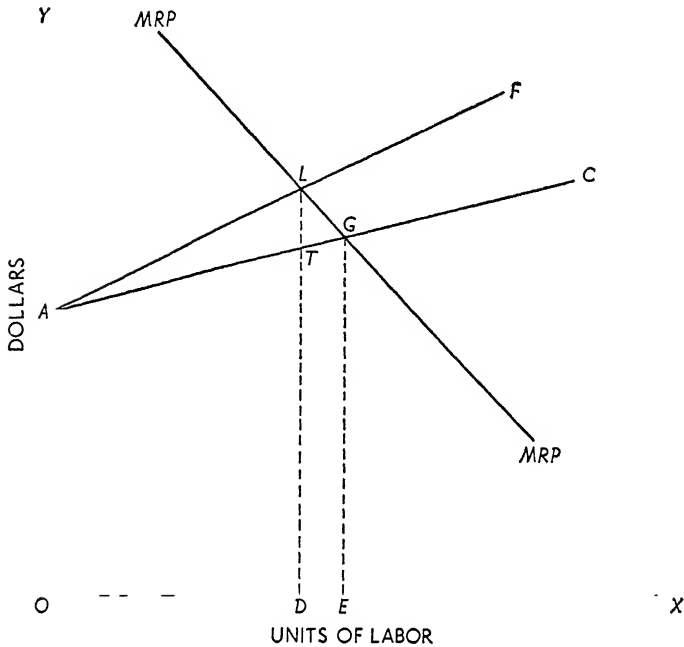
labor in an area that it will have to offer higher wage rates when it wants additional labor in order to attract workers away from other companies. This is particularly likely in cases of skilled labor which is in short supply. The type of exploitation here considered may therefore be more common where wage rates are high rather than low, as it is a result of scarcity in the labor market. In cases of such short supply, a firm, in estimating its labor requirements, will take into account the fact that its demand for labor affects the market price of labor. The firm which is a large enough buyer of a particular class of labor so that its demand will affect the price of labor is termed a "monopsonist" by analogy to a monopolist who is a large enough seller of a commodity so that his supply will affect the price of a commodity. The monopsonist will assume that he is faced by a rising supply curve for labor, that is, that increasing amounts of labor can be obtained only at successively higher wage rates. This will affect his decision as to the amount of labor which he will employ.

In our previous examples, we noted that if an employer can obtain additional workers at the same wage, the average cost of each additional worker and the marginal cost of each additional worker will be the same and will, in each case, be equal to the wage which is paid the worker. If, however, the employer has to pay higher wages to attract additional workers, the identity between average cost and marginal cost disappears. Suppose the prevailing wage paid by a firm has been \$1.00 an hour, but in order to obtain additional workers the employer finds he must increase the wage rate to \$1.25 per hour. If he pays this rate to new workers, he will also be compelled to pay it to all other men of the same skill already in the firm in order to avoid dissatisfaction among his employees. As a consequence the addition to total wage cost (i.e., marginal cost) attributable to hiring an additional worker may under such circumstances be very great and considerably in excess of the wage, or average cost, of such a new man.

In Figure 21 units of labor hired by the firm are indicated along the *X-axis*, while the cost of labor and its productivity in terms of dollars are indicated along the *Y-axis*. The supply curve of labor (*AC*) is assumed to be rising to the firm. Each point on this line indicates the wage which will have to be paid to attract the amount of labor indicated along the *X-axis*. The wage paid and the average cost of labor to the individual firm are therefore identical. However, when the average cost of labor is rising, the marginal cost will be greater, as has already been explained, since the marginal cost takes account not only of the higher wage paid to a particular employee but also of the addition to payroll resulting from paying the

FIGURE 21

EXPLOITATION: RISING LABOR SUPPLY CURVE



same higher rate to all employees already employed by the firm. Marginal cost is indicated in Figure 21 by the line AF . Obviously the employer has to take account of the expensive consequences in terms of his total payroll of paying higher rates for new men, and for this reason he employs that amount of labor for which the marginal cost of labor and its marginal revenue product is equal. This equality is achieved if OD units of labor are employed. It will be recalled that in our previous example where the supply curve of labor was constant, the employer also equated marginal cost of labor and marginal revenue product to maximize profits, since marginal cost of labor and the wage of labor were the same. However, in Figure 21, because the supply curve for labor is rising, for OD units of labor the marginal revenue product of labor (DL) will be above the wage paid to labor (DT). If the employer were to expand output and employment to OE units, at which point the wage and marginal revenue product are equal, he would, under the circumstances here set forth, reduce his profit. Here then is a case in which the wage will be less than marginal revenue product, and therefore exploitation will exist. Under the circumstances shown in Figure 21, the employer could not pay labor a wage equal to its marginal revenue product and still maximize profits.

Consequences of Exploitation

We have seen that if the wage of labor is approximately equated with its marginal revenue product, an increase in wage rates will lead the employer to reduce employment until at the smaller output the marginal revenue product of labor is raised to equal the now increased wage. In the case of exploitation attributable to a rising supply curve for labor, however, the effect of a wage increase upon employment will depend on whether there is a rise in the entire supply curve of labor or a change in its slope. If the entire marginal cost and average cost curves for labor shift upward but remain rising supply curves (as would be the case if there is a general increase in wage rates in the area), employment will be reduced in the individual firm since there will have been a rise in the marginal cost of labor without a concomitant change in the marginal revenue productivity of labor. However, it is also possible that an increase in wage rates may be accompanied by a change in the shape of the supply curve of labor. For example, suppose a union enters the labor market and sets a uniform rate for labor regardless of the number of workers required (within limits), which is equal to the former marginal cost of labor. In Figure 21, this would mean that the supply curve for labor would now be designated by a horizontal line drawn through point *L* on the marginal revenue product curve. If this were to occur, the employer would still find it profitable to employ the same number of employees (*OD*) since this amount would be indicated as most profitable by the intersection of the horizontal supply curve for labor and the demand curve for labor. The wage *DL* thus would be above the former wage *DT*, but because there would be no change in marginal cost of labor, employment would be unaffected. All that would occur would be a reduction in profits of the firm. Here is a case in which workers would benefit from organization.

UNIONS AND MARGINAL-PRODUCTIVITY THEORY

A rising supply curve for labor is most typical of skilled wage groups, but these are the very ones that are most likely to be highly unionized. When a trade-union sets a minimum wage rate for work of a particular kind regardless of the number of workers the employer hires to do it, the effect is to make the supply curve for labor to the employer horizontal or "perfectly elastic," as the economists say. This has the effect of eliminating exploitation attributable to a rising supply curve for labor. But union organization, by reason of its multifarious rules and regula-

tions and restrictions on employer freedom of action may also make it more difficult for employers to employ the optimum amount of labor and thus produce a discrepancy between marginal revenue product and wage.

The correspondence of a worker's wage with his individual contribution to the revenues of the firm depends in some degree upon the ability of the employer to determine the amount of such contribution. This presupposes that the employer can hire and fire at will, rearrange job classifications, change men from one position to another, substitute machinery for labor, and, in general, freely alter the combinations of labor and capital within the firm. Unions, however, have restricted many of these former prerogatives of management. Consequently, in firms where unions are strongly entrenched, workers are not freely substitutable, and the task of marginal-productivity determination is undoubtedly made more difficult.

Effect of Union Rules

Union rules which limit the employer's ability to substitute machinery for labor and restrict the freedom of the employer to measure the contribution of labor to output of the firm may produce a range of indeterminateness in wage-employment relations. For example, many unions are now interested in requiring employers to pay dismissal wages to employees who are displaced as a result of technological change. Suppose as a result of a wage increase an employer finds that it is profitable to introduce a new machine which will displace ten workers. If the union now compels the employer to pay these displaced workers dismissal wages for some period of time after they are laid off, the employer may decide it is no longer profitable to introduce the machine. The union insistence on a dismissal wage has obviously not increased the marginal revenue product of the labor involved; yet it has had the practical effect of enabling the union to raise the wage rates of these workers without producing immediate technological unemployment.

In effect, union rules have produced a range of indeterminateness within which some changes in wage rates may be effected without altering employment. The range of indeterminateness, however, is much narrower than the short-run repercussions of employment would indicate. Any wage adjustment, whether it immediately alters employment or not, does affect profits and the inducement to invest. If these are adversely influenced by union wage demands, wage increases even within the "range of indeterminateness" may cause unemployment in the long run.

DEMAND FOR LABOR IN THE ECONOMY

In its original form, the marginal-productivity theory purported to explain the demand for labor not only in the individual firm but also in the economy as a whole. It laid down a long list of assumptions and emerged with a conclusion that in equilibrium the wage of labor in the economy as a whole would be equal to the marginal productivity of labor in its least profitable use. This conclusion—and the highly artificial assumptions upon which it was based—did much to bring the theory into disrepute. Moreover, proponents of the theory erroneously reasoned from the existence of unemployment in the labor market to the conclusion that wages were too high and that if wages were only reduced, unemployment could be eliminated.

It is now generally recognized, as a result of the work of John Maynard Keynes⁴ in the field of general equilibrium analysis, that the marginal-productivity theory cannot serve as a general theory of employment and that the theory does not adequately explain the demand for labor in the economy as a whole. The demand curve for labor in the economy as a whole is not simply the sum of demand curves of all individual firms. The reason is that each individual demand curve for labor is drawn up under the assumption that wages and prices in other firms remain constant. Thus when the individual employer considers what effect a reduction in wage rates will have on his labor requirements, he assumes that sales of his product will be unaffected by the reduction in wages. However, when we consider the economy as a whole, a reduction in the wages paid to all labor will affect the demand curve for all labor because wage earners are the principal purchasers of the product of industry. Whereas for the individual firm, the demand curve for labor may be assumed to be independent of the supply curve for labor, this assumption cannot be made when we are considering the economy as a whole. Therefore, it is possible that a reduction in wage rates might not increase employment at all when the reduction is nation-wide, even though increased employment would normally follow a wage reduction in the individual firm.

The demand for labor in the economy as a whole can only be understood by application of the aggregative analysis developed by Keynes in which attention is given to changes in savings, investment, and national income. However, the fact that marginal-productivity analysis has proved

⁴ J. M. Keynes, *The General Theory of Employment, Interest and Money* (New York: Harcourt, Brace & Co., Inc., 1936).

inadequate to deal with the demand for labor in the economy as a whole does not necessarily mean that it cannot be used to advantage to explain the demand for labor in the individual firm. Exponents of this theory still contend that it gives a logical explanation of employer behavior in the individual firm.

CRITIQUE OF THE MARGINAL-PRODUCTIVITY THEORY

A number of criticisms have been leveled at the marginal-productivity theory. Some of these have merit; others are based in part upon a lack of understanding of what the theory holds. The following are some of the major lines of attack against the marginal-productivity theory.

1. Some economists object to the whole notion of marginality and marginal calculations on the grounds that "businessmen don't think that way." It is all very well, they say, to draw up marginal revenue and marginal cost curves and sloping demand curves and rising supply curves, but the fact is that most employers have little or no idea of any points on these curves other than the point at which they are at the time. While businessmen know their existing prices, they do not know accurately how much their prices will have to be cut to sell additional units, nor how much product can be sold at lower prices. Furthermore, factors of production are not easily divisible, so as a practical matter businessmen cannot add one or two or three units of capital to determine how its marginal revenue productivity compares with that of labor. Capital is customarily embodied in "chunks" like machines and factories, and the employer cannot very well speculate on adding half a machine to his existing equipment. While this can be done to some extent in the long run when capital can be reinvested in various forms, the fact remains that in the short run the indivisibility of units of the factors adds to the difficulties of determining marginal contributions.

This means that there are inevitably large areas of indeterminateness inherent in practical application of marginal-productivity principles, assuming that employers try to apply them at all. Some economists doubt whether employers are even interested in marginal calculations. They point out that when labor costs rise, many businessmen talk about increasing output to reduce *average costs* per unit, whereas according to marginal-productivity principles, they should be thinking in terms of decreasing output because of increased *marginal* costs. If businessmen are in fact more interested in the behavior of average rather than marginal costs, a substantial revision would be necessitated in marginal-productivity doctrine.

Despite these criticisms, advocates of the marginal-productivity theory maintain that marginalism still exemplifies the typical economic calculations of the average businessman. They point out that marginal-type calculations are really very simple and are practiced by employers in every aspect of business. For example, if an employer is asked why he does not take on another bookkeeper, or purchase a particular machine, his answer will usually be that the added return or revenue or service would not justify the additional expense. Here is an example of weighing of marginal contributions and marginal costs which the employer makes in a rough sort of way, despite the admitted difficulties in making such calculation. This same sort of rough approximation is all that marginal-productivity theorists claim is necessary to make their theory workable in practice.

2. Some economists claim that the market for labor does not function like the ordinary product market and that therefore the marginal-productivity theory, which runs in conventional terms of supply and demand for labor, does not give a realistic picture of the labor market. We have already had occasion to consider some of the peculiarities of the labor market. Thus, there is typically no one price for a particular type of labor representing an equilibrium of supply and demand. On the contrary, many prices exist side by side, and there is little tendency for such differentials to disappear over time.

The contributions which have been made by labor economists in pointing out these characteristics of the labor market are important, but they do not invalidate supply and demand analysis. Both the volume of unemployment in a given labor market and the number of new job opportunities will have an effect on the whole structure of wage rates in a community, indicating that supply and demand considerations cannot be ignored. The fact that a union may set a wage in a particular market based upon a wage level established by some other union in a far distant city does not vitiate the usefulness of marginal-productivity theory. Such a wage will probably differ from the wage which would be established in a free labor market, but whatever the wage which is established, it is still possible that the volume of employment at that wage will tend to be determined by the demand curve for labor which reflects the marginal productivity of labor.

The marginal-productivity theory, as applied to the demand for labor in the individual firm, is quite consistent with a diversity of wage rates for the same type of labor in a given labor market. It is true that marginal-productivity theorists, in their attempt to explain the demand for labor in the economy as a whole, at one time made various artificial

assumptions about mobility of labor and a tendency toward the establishment of one rate for a given type of labor in the economy as a whole. But these assumptions and this aspect of the theory need not detain us, since, as has already been pointed out, it is now generally agreed that the marginal-productivity theory is inadequate as an explanation of the demand for labor in the economy as a whole. Once we take a more limited view of the function of this theory, it can be integrated with recent developments in the field of labor-market analysis. If, for example, two firms make different bargains for the same type of labor and pay such labor different rates, marginal-productivity theory would simply indicate that the adaptation of the two firms in terms of price and output might differ but that both firms would attempt to apply marginal-productivity principles in fixing the volume of employment at the different rates.

3. A major criticism directed against the marginal-productivity theory stems from a fundamental disagreement as to the basic psychology and motivations of employers. Marginal-productivity theorists, as we have seen, base their theory on the assumption that employers are motivated by a desire to maximize profits. In recent years, however, some economists have challenged this assumption. They point out that other objectives may influence employer conduct. For example, employers may be interested in obtaining power or community respect rather than economic advantage. Furthermore, even if businessmen are interested in making a profit, this does not necessarily imply that they strive to make the *maximum* profit. There are many examples of businessmen who do not seek to expand and build new plants or open new stores simply because they are content with a moderate standard of living and do not wish to take on the additional responsibilities that come with big business. Where such motivations are paramount, employer adjustments to, say, a union wage increase may be quite different than that forecast by application of marginal-productivity principles. For example, an employer who owns and manages his business may, according to these economists, react to a wage increase simply by taking a reduction in profits without altering his prices or volume of employment, as long as the wage increase does not require a substantial adjustment in his own scale of living.

Once the common denominator of maximizing profits is eliminated, a general principle governing employer hiring of labor becomes difficult to state. If businessmen are not interested in achieving maximum profits, it is difficult to see how a generalized theory of demand for labor can be evolved. The demand for labor would depend in each individual firm upon the psychological motivation of the particular employer which

might differ from that of other employers and might change from time to time. A theory, according to Webster, is a "general principle, formula, or ideal construction offered to explain phenomena and rendered more or less plausible by evidence in the facts." It would appear that if the assumption is made that businessmen are not generally interested in maximizing profits and that other motives control their actions, economists will be led into a case-by-case analysis of individual employer reactions in the labor market rather than to statement of a general theory of labor demand.

Marginal-productivity theorists, of course, recognize that all employers are not profit-minded to the same degree and that any decision in the labor market—as in any line of human endeavor—is the result of a complex of motivations, which may include considerations of prestige, family, security, power, and the like. However, they believe that most businessmen are normally concerned about how they are going to stay in business and that this involves keeping costs down and profits up. They contend, moreover, that managements in large corporations, whose balance sheets and profit and loss statements are made available to stockholders, are particularly interested in making a good showing relative to other large firms in the industry and in other industries. Management's reason for existing is to make profits for stockholder owners. The usual measure of its success is earnings and dividends. Therefore, marginal-productivity theorists state that, as a general principle, it is fair to assume that maximization of profits is a dominant employer objective.

THE BARGAINING THEORY OF WAGES

Current interest in the peculiarities of the labor market and the dominant position of unions in shaping wage rates in many industries have led to a revival of interest in the bargaining theory of wages. The roots of this theory are found in the writings of early economists such as Adam Smith. Professor John Davidson published a treatise entitled *The Bargain Theory of Wages* in 1898, and Maurice Dobb further elucidated the theory in 1933.⁵ Recently a number of labor economists have espoused the theory as being a realistic substitute for the marginal-productivity theory.

Basically, the bargaining theory holds that no single principle determines wage rates. In any labor market there may be a diversity of rates for the same type of labor. This diversity develops because of differences in the bargains made by various employers and their employees or the unions representing the employees. Employers are conceived of as having

⁵ See Maurice Dobb, *Wages* (London: Nesbet & Co., Ltd., 1933).

upper limits above which they will not go in making a wage bargain. This upper limit will differ for various employers. Among the factors determining this upper limit are the productivity of the labor, the profitability of the business, the possibility of utilizing machinery as a substitute for labor, and the possibility that excessive labor costs might require the plant to shut down. The lower limit to the bargain is set by minimum wage rates established by state or federal governments, the possibility of labor moving to other firms or areas, community standards of what is a just wage, and similar considerations.

If the foregoing propositions are all that is involved in the bargaining theory of wages, that theory is quite consistent with the marginal-productivity theory. For the latter merely holds that whatever the wage which is set—whether by government, collective bargaining, or market forces—the employer will attempt to adapt to it by employing an amount of labor such that its marginal revenue productivity will be equal to the wage. Some exponents of the bargaining theory overlook this and assume that because the exact level of the wage is indeterminate and may fall anywhere between the upper and the lower level above referred to, therefore the adaptation in terms of employment must also be indeterminate. Marginal-productivity theorists deny this and have attempted to integrate the bargaining aspect of wage determination into the general structure of the marginal-productivity theory.

For some economists, however, the bargaining theory is much more than just a theory of determination of wage levels. These economists extend bargaining principles to the relationship between wages and employment in the individual firm. They believe that this relationship is much more tenuous and indeterminate than the marginal-productivity theory would lead one to believe. Thus bargaining theorists maintain that a union, by superior bargaining power, may squeeze out monopoly profits for the benefit of organized employees without affecting the volume of employment in the firm. Likewise, they argue that organized labor may achieve wage increases at the expense of the remuneration going to other factors of production which are immobile or lack the benefit of organization to protect their interests.

These conclusions are also not necessarily inconsistent with marginal-productivity theory. The latter has always recognized that in the short run, bargaining pressures may squeeze out monopoly profits or increase remuneration of one group at the expense of another, without affecting employment. In the long run, however, marginal-productivity theorists contend that there is a tendency for adjustments to be made which do affect the volume of employment. While it may be true that we

live in a world consisting of a continuous series of "short runs" and never clearly see the long-run effects of particular actions, nevertheless it would seem that any theory of the demand for labor must take account of the fact that short-run reactions to bargaining pressures are not the last word and that changes in location, size and number of plants, investment in laborsaving machinery, and similar actions are part of the adjustment of employers to changed cost conditions which take time to work themselves out.

The bargaining theory of wages has yet to be fully developed as an explanation of the relationship of wages and employment in the individual firm. Because it has not been elaborated in as full detail as the marginal-productivity theory, its possible inconsistencies and shortcomings are not as apparent. As a theory of wages, it gives us a better understanding of the forces which shape the wage structure of the labor market, but as we have seen, its views in this regard are not inconsistent with the marginal-productivity theory. As a theory of the demand for labor, it would perhaps give greater importance than does the marginal-productivity theory to noneconomic motives in shaping the demand for labor.

SUMMARY

Theories of the demand for labor tend to evolve as our knowledge of the labor market improves and as the nature of the organization of industry and the labor market changes. The marginal-productivity theory has held the center of the stage for many years as the accepted theory of labor demand, but recent criticisms indicate that it, too, is subject to revision and possible substitution by other theories. Whether its successor will be the bargaining theory or some other theory remains to be seen. At this point, no other theory has been elaborated in sufficient detail to constitute an adequate substitute.

In this and the preceding chapter, we have examined some of the factors which determine the supply and the demand of labor. We are now prepared to consider wage determination as it actually occurs in the labor market. This is the subject of the following chapter.

QUESTIONS FOR DISCUSSION

1. Explain what is meant by "marginal productivity." What is the difference between the value of the marginal physical product of labor and the marginal revenue product of labor? Under what circumstances will they be the same?
2. Compare the marginal-productivity theory with the bargaining theory of wages.

What points of similarity are there in the two theories? What are the merits and shortcomings of each?

3. What conditions may produce a rising supply curve for labor? Will employers apply marginal-productivity principles when faced by a rising supply curve of labor? Discuss.

SUGGESTIONS FOR FURTHER READING

BELFER, N., and BLOOM, G. F. "Unionism and Marginal Productivity Theory," in R. A. LESTER and J. SHISTER (eds.), *Insights into Labor Issues*, pp. 238-66. New York: Macmillan Co., 1948.

A discussion of the indeterminateness which may be introduced into marginal-productivity analysis by reason of union rules.

LESTER, R. A. "Shortcomings of Marginal Analysis for Wage-Employment Problems," *American Economic Review*, Vol. XXXVI (March, 1946), pp. 63-82.

A critique of conventional marginal analysis based in part on replies to questionnaires submitted to employers.

MACHLUP, FRITZ. "Marginal Analysis and Empirical Research," *American Economic Review*, Vol. XXXVI (September, 1946), pp. 519-54.

A defense of conventional marginal-productivity theory and a reply to criticism of the theory stated by Lester in above article.

Chapter 11

WAGE DETERMINATION

In the three preceding chapters we have considered the supply of labor, the demand for labor, and the labor market in which these forces operate. Wage determination in the individual firm reflects the various economic forces and circumstances which we have examined. Thus, the wage level in a particular firm will ordinarily be lower if the demand for labor is decreasing than if it is increasing. Wages will be higher when labor is in short supply than where there is a large body of unemployed labor available. Rates will tend to be lower in the South than in the North.

When union business agents and management representatives sit down to the conference table to negotiate a new contract, the foregoing circumstances set some limit to the range within which wage rates will finally be set. In this chapter, we shall examine the conditions which cause a particular schedule of rates to be agreed upon by union and management representatives in the individual firm. How are wage rates adjusted in the collective bargaining process? What is the relationship between rates in different firms in the same industry? What are the criteria and pertinent economic circumstances which union and management consider in determining wage rates?

THE INTERNAL WAGE STRUCTURE

In the typical large industrial establishment today, literally hundreds of individual wage rates or wage classifications have to be adjusted as part of a wage negotiation. In our theoretical discussion in earlier chapters, we have talked about "the wage rate in the individual firm." This is obviously a simplification. It would be more correct to talk about a wage structure. The wage structure is the whole complex of rates within the individual firm for all of the various jobs for which persons are employed. This wage structure does not necessarily move as a unit. There

may be, of course, wage negotiations where a flat 10 cents an hour or a uniform percentage increase is given to all employees, but frequently exceptions are made for particular groups of employees. There are always individual jobs which get out of line as a result of the passage of time and as a result of the impact of technological change. These require special treatment. Furthermore, there is the pressing problem of keeping a proper relationship between the skilled and the unskilled rates. As a result of these various factors, the wage structure may be compressed or stretched out from one negotiation to the next (viewing the wage structure in terms of the entire schedule of rates from the lowest to the highest-paid employee).

While a great many rates must be altered in the course of a wage negotiation, labor and management do not normally make an issue of every individual rate. This would obviously take too much time. Instead, emphasis is placed upon the key rates in various job clusters.¹ A job cluster may be defined as a stable group of job classifications or work assignments within a firm which are so linked together by technology, the administrative organization of the production process, or social custom that they have common wage-making characteristics. Thus in a factory, one job cluster may consist of various classes of lathe operators; another job cluster of sweepers, janitors, etc.; another of patternmakers, etc. Each cluster can be viewed as consisting of a key rate and associated rates. Key rates may be the highest rate in the particular cluster, the lowest, or sometimes the rate at which the greatest number of workers are employed. These are the rates which union and management representatives focus on in their bargaining negotiations, and once these rates are determined the associated rates fall into line.

THE EXTERNAL WAGE STRUCTURE

Key rates in the individual firm are not determined in a vacuum. On the contrary, they are hammered out in a collective bargaining relationship where management attempts to safeguard its competitive position in the particular industry of which it is a part. Most company executives keep well informed as to the rates which their competitors pay for comparable jobs. Unless there are extenuating circumstances, management usually tries to keep its key rates on a par with its competitors, on the theory that if its rates are lower it will lose employees and if its rates are higher it will lose business because of the higher costs.

¹ J. T. Dunlop, "The Task of Contemporary Wage Theory" in G. W. Taylor and F. C. Pierson (eds.), *New Concepts in Wage Determination* (New York: McGraw-Hill Book Co., Inc., 1957), p. 129.

One writer uses the concept of a "wage contour" to elucidate the relationship between the key rates of various individual firms or establishments. "A wage contour is a stable group of wage-determining units which are so linked together by (1) similarity of product markets, (2) resort to similar sources for a labor force, or (3) common labor-market organization (custom) that they have common wage-making characteristics."² For example, the basic steel contour for production jobs consists of basic steel producers throughout the nation. By contrast, newspapers in New York City constitute a separate wage contour not directly affected by rates in other cities. The wage contour normally contains one or, in some instances, several key settlements. The contour is composed of rates for key firm(s) and a group of associated firms. The key settlement may be set by the largest firm, the price leader, or the firm which customarily plays the role of wage-relations leader. As we shall see later in this chapter, leader-follower relationships in wage determination are extremely important in our basic industries. Some firms within a wage contour will follow the key settlement closely; others will follow it in varying degree. But this external relationship will have an important bearing on the decision which is made with respect to changes in the key rates in the various job clusters of each establishment's internal wage structure.

The concept of the wage contour helps to explain differences which prevail in rates for similar jobs in different industries. For example, a comparison of rates paid to motor truck drivers in Boston on July 1, 1953, in a variety of industries indicated that the rates paid for teamsters in these essentially substitutable jobs ranged from \$2.49 in magazine distribution to \$1.27 in scrap iron and metal.³ The reason for the variation is that each rate was a reflection of conditions in its own wage contour. Each is a reflection of the product market. Magazine distributors were more concerned about the rates that their competitors *in that industry* had to pay for truck drivers than what the rate was in the scrap-iron business. Of course in a perfect labor market these differences could not prevail because teamsters would tend to move to the higher-paying industry, and the lower-paying industries would have to raise their rates in order to hold their employees. In actuality, these differences persist over long periods of time because of the orientation of the wage-rate determination process in terms of the product market and because of the differences in competitive conditions, profits, and demand conditions in the various industries using this similar type of labor.

² *Ibid.*, p. 131.

³ *Ibid.*, p. 135.

We have examined the complexity which lies behind the term "wage." Now let us consider what is meant by "wage increases" and review the various criteria and arguments which are used in determining the amount of wage adjustments.

GENERAL WAGE INCREASES

Much of the friction which develops in collective bargaining involves the issue of "wage increases." What precisely do we mean by this phrase? From time to time, an employer may review the performance of his employees and give merit increases to various employees. Where range systems are in effect, such procedure is common, except in those companies where the progression from the minimum to maximum rate is dependent solely on length of service. Decisions as to merit increases may involve considerable expenditures of money and may give rise to grievances which the union will process even to the point of arbitration. However, such increases are not of the type normally involved in general wage adjustments.

General wage increases normally have little or no relation to merit. They are usually given to all workers whether or not the employer is satisfied with their individual performance. The justification for the increase may be an increase in the cost of living or the high profits made by the employer. The performance of the company as a whole is always a consideration, but the performance of the individual worker is not usually at issue in such negotiations. The increases are often, but not always, uniform for all employees. Frequently particular groups of employees will be given larger increases than others, not because of merit but because their particular job rates are felt to be "out of line." For example, in the 1955 United Automobile Workers-General Motors wage agreement, skilled workers were given an additional increase because management felt that over the years the differential between skilled and unskilled workers had been unduly narrowed. On the other hand, many industrial unions prefer to have uniform adjustments for all employees in terms of so many cents per hour because this tends to give the lower-paid workers—who represent the bulk of the union membership—a larger percentage increase than the higher-paid workers. Thus, "across-the-board" wage increases gained by the United Automobile Workers between 1937 and 1942 had the result of flattening the rate structure of the industry. The differential between the wage rates of sweepers and

toolmakers was reduced from about 120 per cent to about 40 per cent during this period.⁴

General increases may or may not affect minimum rates for particular jobs. For example, suppose the minimum hiring rate for a clerk in a department store is set by the collective bargaining agreement at \$40 per week. If the union now wins a general wage increase for all employees of a uniform \$2 per week, all clerks will now receive no less than \$42 per week. The bargain may be, however, that the increase applies to all present employees of the company but does not apply to the minimum rates, so that new employees may still be hired at the \$40 per week figure. The employer may prefer such a deal since it enables him to achieve some saving in labor cost through normal turnover of existing employees and hiring of new ones at the lower rate. Most unions, however, are interested in raising minimum rates as part of general wage adjustments.

What circumstances do unions and management take account of in determining the amount of a wage increase in an individual firm? Many arguments are used by ingenious union representatives to justify an increase in wage rates. Management representatives are equally adept at finding reasons why the increase cannot be made. In the following discussion we shall consider some of the principle criteria which seem to play an important part in the determination of the size of general wage adjustments.

CRITERIA IN GENERAL WAGE ADJUSTMENTS

Intra-industry Comparative Standards

Perhaps the most common standard which is applied both by labor and management to determine whether a wage adjustment should be made in a particular firm is to compare its wage structure with those of other companies in the industry. Because of the importance of the standard of what the other fellow is doing, both union and management representatives usually come to the bargaining table armed with statistics, or at least a working knowledge of what other firms in the industry are paying. In some industries employers' associations make such data available; in others, the employer may have to rely on telephone calls to the personnel directors of competing companies. Unions in many cases are able to obtain such data through their international office or through other locals.

⁴ A. M. Ross, *Trade Union Wage Policy* (Berkeley, Calif.: University of California Press, 1948), pp. 32-33.

Reliance on rates that other companies are paying would, at first glance, seem to put collective bargaining on a factual basis. "If a competitor can afford to pay given rates, why can't you?" is the question put by union agents to the employer. The trouble is that statistics—particularly when they are averages—may have little meaning because of shortcomings in their tabulation. Suppose a union in negotiating with an automobile manufacturer, whom we shall call "Company B," cites with authority Bureau of Labor Statistics' figures which show that average hourly earnings in the Ford Motor Company are higher than in Company B. This higher average does not mean, however, that, job for job, rates are any higher in Ford. The average hourly earnings may be higher in Ford because its operations include certain operations not covered by Company B. For example, if Ford manufactures steel and Company B buys it, Ford will tend to have a higher average hourly earning figure because steelworkers' jobs are ordinarily highly paid. On the other hand, if Company B makes its own spark plugs whereas Ford does not, B may use a lot of women for this operation, and this would tend to bring its average down.

It is evident that average hourly earning figures must be used with caution. Wage rates for particular jobs are a better index of whether or not a particular company is in line, but even here there may be a tremendous difference in job content. The mere fact that a job classification calls for a stitcher or a cutter, or a clerk or a painter, does not mean that the work or the skill required is identical or that the technical conditions under which employees having similar job descriptions work will be alike. In the same industry or area, the same job may be used for dozens of dissimilar operations. The War Labor Board found during World War II that it was impossible to make comparisons of interplant rates on the basis of job titles, but the Board instead required detailed job descriptions and often sent experienced investigators to plants in order to check on the descriptions as well. Even then, one could never be absolutely certain whether "Tool and Die Maker—A" and "Screw Machine Operator B" meant the same thing for the Jones Company as for the Smith Company. Yet workers and employers more often than not base their bargaining claims on simple job titles rather than job content.

Actually, the criterion of intraindustry standards leaves ample room for bargaining. For example, the union may want to compare hourly rates in various plants, while the employer may want to compare weekly earnings. This is frequently the case where a company permits its employees to work some overtime each week at time and a half the regular rate, which gives its employees more take-home pay than workers in

other plants. Nevertheless the union will argue that hourly rates should be raised to bring them in line with rates in other plants in the industry. Frequently the principle of "doing what the other fellow is doing" will be recognized by union and management representatives, but there will be disagreement as to whether the criterion should be the size of wage increases in other firms or the rates paid by other firms after such increases have been made.

Wage Leadership. In industries employing the most wage earners—steel, automotive bodies and parts, aircraft, rubber, baked goods, textile, paper and paper board, and others—the tendency is for the individual employer to keep his wage rates in line with rates paid by certain key firms in the industry, a policy which frequently results in an industry-wide adjustment of wages whenever circumstances compel revision in such key companies.

The typical structure of an industry in the American economy is that four to eight companies will produce from one half to four fifths of the total output of the industry. Once wage scales have been set in the major companies, the pattern of wage adjustment for most employees in the industry has also been determined. Just as big companies influence small companies, so wage rates set in populous areas tend to affect rates in outlying areas. For example, building-trade negotiations in New York and Chicago are likely to be influential in local areas. The same situation will exist in printing industry negotiations in these two cities and in negotiations in the transit industry in Detroit and Boston.

Wage leadership does not depend upon the existence of national, regional, or other forms of industry-wide bargaining. It is as important a phenomenon in the automobile industry where company wage policies are set individually as in the flat glass or Pacific Coast paper industry where companies bargain through joint committees or associations. Key wage bargains are important whether wages are determined by collective bargaining or by unilateral company decision in the case of unorganized employees. In some industries, wage leadership existed prior to the advent of unions. For example, other steel and oil companies have historically adjusted their wages to patterns set by the United States Steel Company and the Standard Oil Company of New Jersey. In these and other industries, wage leadership has often gone hand in hand with price leadership.

Although wage leadership has existed in the absence of union organization, union wage pressure has tended to spread and to make explicit uniformity in wage rates as a cardinal basis of management wage policy. There is now double pressure for meeting the other fellow's wage rates:

from competitors and from labor itself. Union contracts requiring payment of wages on a par with rates prevailing for work of a similar kind in other firms in the industry hasten the spread of wage increases through an industry. At the same time, however, such pressure may produce a feeling among company executives that upward adjustments should not be made unless other firms in the industry are making them, or the union demands them, and therefore make for fewer, though larger, wage adjustments.

In some industries there are not only wage leaders but also "high-wage firms." These companies try to pay more than the going rate for labor. Sometimes such firms justify this policy on the ground that high wages attract to it better than average employees. In other cases, the reason for the policy may be to keep out a union. In any case, unions use such differentials to their advantage. In bargaining with other companies in the industry they will argue that competitors of the high-wage firm should pay wages equal to those paid by the high-wage company. Then, after obtaining such an increase from the other firms, they will go back to the high-wage firm (once it has been organized) and contend that it should maintain its historical differential. Companies which adopted a higher-than-average wage policy as a means of keeping out a union may thus find that they are stuck with the policy when the union organizes their employees. Union strategy in using such a differential to raise wage rates drew this comment from an experienced arbitrator:

I don't want to start an argument on this, but I sat on the Knoxville case. The Knoxville union contended we should level the scale up more closely to the Chattanooga scale, and in my award I think you will find a reference to the fact that I thought we ought to eliminate some of these pockets in the South. But now, if Knoxville claims you should level up to Chattanooga, and then the Chattanooga printers say we ought to maintain a differential over Knoxville—I mean, just where do we get off on that?⁵

Unions typically use such a leveling approach in their bargaining strategy. Rates for a particular class of employees may be relatively high in one firm, perhaps because of the length of service of these employees, or perhaps because of unusual conditions under which they have to work. The union will then cite the example of these high rates to other firms in the industry who are likely to be unaware of the special circumstances creating them and will argue that they should meet these high rates. In the same way, a "bad settlement" made by one employer in an industry

⁵ Statement of Professor (now Senator) Paul Douglas, quoted in *How Collective Bargaining Works* (New York: Twentieth Century Fund, Inc., 1941), p. 77.

who could not risk a strike for financial reasons can be used by a union as a lever to raise rates of every other firm in the industry.

Union Attitudes toward Wage Uniformity. Most unions want uniformity in wage rates for similar jobs throughout an area of competitive production. Unions are dynamic organizations, but paradoxically one of their major objectives is stability. Frequently, achievement of this aim is dependent upon elimination of competition between firms in the sphere of wage rates. The more competitive the industry, the smaller the units in the industry; and the less responsible the employers, the greater is the likelihood that union wage policy will seek competitive parity in labor cost as a measure to relieve pressure on the wage structure.⁶ In an industry in which there is considerable variation in the size and efficiency of the individual firms, a union must decide whether the welfare of its members can best be served by equalization of hourly rates, piece rates, or labor costs per unit in the various plants under union jurisdiction. In some circumstances, the policy of equalization of wage rates or hourly earnings will provide the maximum incentive to industrial efficiency. It may be adopted in the form of uniform wage scales, as in the building and printing industries where jobs are skilled and occupational rungs clearly defined, or it may take the form of uniformity in plant average hourly earnings, as in the carpet and rug industry where rapid technology and the lack of standardization of operations and product make this the most expedient policy. Such a plan attempts to stabilize earnings while leaving costs to management. Since backward companies must pay as high rates as the most efficient firms, a policy of uniformity in hourly or day wage rates provides the maximum incentive to adoption of improved machinery by the less efficient companies in an industry.

If, on the other hand, the union decides to equalize piece rates or unit labor cost, the incentive afforded to employers to improve efficiency is reduced, unless the union agrees to adjust rates downward as improvements in technique permit greater output. For if piece rates are fixed, introduction of improved machinery serves merely to increase output per worker so that labor's earnings, not employers' profits, are augmented by technical advance. In the men's clothing industry, for example, the Amalgamated Clothing Workers, through its market stabilization department, has attempted to standardize labor costs on a national scale. Standard labor costs are established for various grades of clothing, and conformity with the standards of quality and labor costs is enforced by union representatives. Since the labor cost on a given grade of clothing

⁶ Solomon Barkin, "Industrial Union Wage Policies," *Plan Age*, Vol. VI (1940), p. 3. The writers have drawn heavily on his article for this section.

is fixed and cannot be reduced, the employer is deprived of virtually all incentive to improve his method of production and the quality of his garments. One leading labor economist concludes: "Because the market stabilization program substantially reduces the employer's incentive to make improvements, it would, if strictly enforced for a considerable period of time, impose stagnation on the union part of the industry, and it would undoubtedly lead to a considerable expansion of non-union production and employment."⁷ In practice, of course, strict enforcement of the stabilization plan has been impossible. Furthermore, the stabilization program does not apply to high-quality garments. Consequently, an area is still left in which an incentive is offered to the employer to improve methods of production. In this connection, it is important to realize that even if employers cannot reduce labor costs through mechanization, technological progress may still hold forth the prospect of savings in other costs.

In the full-fashioned hosiery industry, the American Federation of Hosiery Workers was compelled to abandon its policy of uniformity in piece rates because it gave union concerns no incentive to keep up with technology, and as a result the nonunion low-wage sector of the industry made the more rapid strides in mechanization. To induce union manufacturers to modernize equipment, the union negotiated individually with employers, promising concessions in rates in exchange for purchases of new equipment. The more or less standard bargain was that in return for the purchase of 10 per cent new equipment, the union would concede piece-rate reductions of about 15 per cent. By 1941 the unionized sector of the industry had caught up with the nonunion sufficiently so that the union was able to return to uniform piece rates once more. The experience of the American Federation of Hosiery Workers and of other unions which have attempted to impose uniform piece rates or unit labor costs on an industry indicates that such a policy may act as a substantial deterrent to progress in technique. At the present stage of union organization, unions have been compelled to interest themselves in the stage of technological efficiency of their employers, since diversion of the trade to more efficient nonunion manufacturers is a constant threat to union job opportunities. Whether unions will be equally concerned about efficiency when industry-wide collective bargaining becomes the rule is, however, questionable.

On the whole, it seems likely that equalization of wage rates will come to be the dominant form of union wage policy. Of course, there

⁷ S. H. Slichter, *Union Policies and Industrial Management* (Washington, D.C.: Brookings Institution, 1941), p. 531.

must necessarily be variations from this to suit the peculiarities of individual industries, but the policy of uniformity will probably come to prevail in those industries in which it is practicable because it is best adapted to the political necessities of unionism. It is simple, and its aim of equality in a particularly obvious and just form commends it as a slogan for the rank and file. Its reasonableness is convincing. As one union leader puts it—"If Joe Smith goes into a store to buy a hat, he has to pay the same price for it whether he happens to be an employee of General Motors or Willys. Then why shouldn't he be paid the same rate for his work?"

Interindustry Comparative Standards

Wage determination in a particular firm may be affected not only by settlements made by key firms in the same industry but also by major companies in other industries. Some economists are of the opinion that "we have reached the stage where a limited number of key wage bargains effectively influence the whole wage structure of the American economy."⁸ In the years following World War II, such key wage settlements set the pattern for wage negotiations in industry in general. In the first "round," the pattern was set by the U.S. Steel Corporation which granted a wage increase of 18½ cents an hour to the steelworkers in February, 1946. General Motors led the parade in 1947 and 1948 with increases, respectively, of 15 cents an hour and about 11 cents an hour. In 1949, Ford Motor Company set the pattern for the fourth round with a pension plan. Then came wage stabilization which substituted a governmental formula for key wage bargains.

Such key wage bargains affect the thinking of unions and managements in a variety of industries. Both tend to look to these key agreements as a barometer of the labor market indicating what workers expect in the way of wage adjustments. Faced with the need of resolving differences, they find in key bargains a convenient figure upon which they can rationalize a contract. Moreover, union leaders find they must meet the increase obtained by a union leader in another industry or else their personal popularity will be affected. The size of the wage increase obtained by various labor leaders is as assiduously studied by their constituents as the batting averages of baseball players, and if Walter Reuther wants to stay at the top of the league, he has to keep pace with John L. Lewis of the United Mine Workers and Dave McDonald of the Steelworkers.

⁸ J. T. Dunlop, "American Wage Determination: Its Trend and Significance," *Wage Determination and the Economics of Liberalism* (Washington, D.C.: Chamber of Commerce, 1947), p. 42.

Although key wage bargains are important in setting the tone for negotiations in other industries, there is considerable elasticity in the relationship between wage adjustments in key industries, such as steel and automobile production, and the rest of the economy. For example, for the period August, 1945, through April, 1946, of workers in manufacturing industries receiving wage adjustments, 19 per cent received less than 10 cents, only 21 per cent received exactly 18.5 cents (the pattern amount), and 10 per cent received more than 20 cents.⁹ Moreover, 21 per cent of the employees in manufacturing and 59 per cent outside of manufacturing received no wage increase whatever between August, 1945, and May, 1946.¹⁰ Despite the continued importance of key wage bargains since 1946, settlements based upon them have varied much more in response to local conditions.

Cost of Living

A criterion of major importance in wage negotiations—particularly during periods of rising prices such as we experienced in recent years—is change in the cost of living. During periods of rising prices, wages typically lag behind prices. This lag is attributable in part to the fact that wages are much more “sticky” than prices. In fact, most wages of organized employees are fixed by contract for a given period, frequently a year. During the contract period, price increases may rob wage adjustments of much of their value. Therefore, when union representatives sit down at the bargaining table, they naturally have in mind the cost-of-living increase since the last wage adjustment and tend to think in terms of a wage increase compensating for the rise in cost of living as a minimum demand. Management too is concerned in such times with retaining its employees and eliminating pay inequities and usually recognizes the justice in a cost-of-living adjustment.

Union representatives place heavy reliance on increases in the cost of living as a justification for wage increases in times of rising prices. However, when the cost of living falls, they shift their arguments with great facility to some less vulnerable criterion. At such times, they will usually argue in terms of the need to maintain purchasing power.

The cost of living may enter into wage negotiations in several ways. In most cases it is simply another one of the key criteria which unions and management consider in arriving at a wage adjustment. In other situations, the cost of living may affect wage determinations in a much more

⁹ *Ibid.*, pp. 37–38.

¹⁰ A. M. Ross, “The External Wage Structure” in G. W. Taylor and F. C. Pierson (eds.), *New Concepts in Wage Determination* (New York: McGraw-Hill Book Co., Inc., 1957), p. 202.

specific manner. This will be the case where unions and management have already incorporated in their collective bargaining agreements automatic cost-of-living adjustments or escalator clauses. These clauses typically specify a precise relationship between changes in the cost of living and changes in the wage rates to be paid employees covered by the agreement. There is considerable variation in various contracts with respect to the ratio between cost-of-living changes and wage changes. Some contracts are adjustable only upward, but most make wages adjustable both upward and downward in response to changes in a specific cost-of-living index.

Still another type of provision which is found in some contracts provides that the wage clause in the contract may be reopened for negotiation even during the contract term when cost-of-living changes of a given amount occur as measured by a specific index. Under such a clause the parties are not bound beforehand to make a wage adjustment, but if there has been a significant change in the cost of living and if rates have been adjusted upward automatically in companies having automatic escalator clauses, there is great pressure on management to follow suit.

Development of Automatic Escalator Clauses. The recent development of automatic escalator clauses geared to changes in the cost of living may be said to have commenced with the General Motors contract of 1948. Prior to that time cost-of-living provisions had been incorporated in various contracts, but in the aggregate they covered relatively few workers. In December, 1942, the National War Labor Board issued a directive providing that no escalator clause in a labor contract could remain effective if it carried wage rates above the level permitted by the Board's Little Steel Formula. This order produced scarcely any reaction, since few employers were then covered by such contracts.

The 1948 General Motors escalator clause, however, started a new trend in collective bargaining agreements. By 1950, approximately 2 million workers were covered by cost-of-living adjustment provisions in labor contracts. Therefore, when during the Korean war the Wage Stabilization Board sought to restrict wage increases, it was compelled to recognize the widespread existence of cost-of-living adjustment contracts and to incorporate this principle in its wage stabilization policy.

By General Wage Regulation Number 8 (as revised August 23, 1951), the Wage Stabilization Board gave prior approval to wage increases required by cost-of-living escalator clauses in effect on or before January 25, 1951, and wage increases required by escalator provisions put into effect after that date if they complied with certain standards prescribed by the Board. The WSB also provided that companies which

did not have escalator clauses could increase wages (not more often than every 6 months) to restore "the loss in real value of wages and salaries from January 25, 1951 to the date of the increases." This meant that unions and management could in effect choose between automatic cost-of-living adjustment clauses or negotiations at 6-month intervals based on cost-of-living changes. Since the latter did not bind unions to any downward reduction in rates if the cost of living declined, many unions preferred the latter alternative. Thus, the WSB Regulations may to some extent have retarded the trend toward automatic escalator clauses.

Nevertheless, the number of workers covered by such automatic clauses has continued to increase. By January 1, 1957, an estimated 3.2 million workers under union agreements and another 300,000 unorganized workers were afforded the benefit of automatic cost-of-living adjustments.¹¹ In other words, the wages of approximately one fifth of all workers covered by collective bargaining agreements have become subject to automatic cost-of-living adjustment provisions tied in most cases to the Bureau of Labor Statistics Consumers Price Index. An interesting development during 1955 and 1956 was the tying in of cost-of-living adjustments with deferred wage increase provisions. Thus if a union succeeded in obtaining management agreement to the principle of annual wage increases over the period of a contract running for several years based upon supposed increases in productivity,¹² it frequently sought to protect the purchasing power of such wage gains by adding a cost-of-living escalator provision to the contract. About two thirds of the workers scheduled to receive deferred increases in wages in 1957 had their real wage gains protected by escalator clauses.¹³ During 1956, workers under United Automobile Worker contracts received deferred wage increases averaging between 6 and 7 cents an hour plus a net increase of about 6 cents an hour from cost-of-living adjustment provisions.

Escalator clauses have been referred to as a form of "built-in inflation," and the charge is sometimes made that such clauses may strengthen inflationary forces in times of rising prices by reducing the lag of wages behind prices which fixed union contracts normally produce. Automatic cost-of-living adjustment provisions usually call for quarterly wage adjustments, whereas in the absence of such provisions or of a wage reopening clause, most union contracts would fix wage rates for at least a year. Thus, when escalator clauses are common, wages will tend to rise faster as prices increase in an inflationary period, although the actual increase

¹¹ *Monthly Labor Review*, January, 1957, p. 52.

¹² See Chapter 15 for a discussion of the annual improvement factor.

¹³ *Monthly Labor Review*, January, 1957, p. 52.

in wage rates over a period of several years may be no greater than if escalation was absent. Account must also be taken of the fact that if management does not have to pay out funds in the form of higher wages under escalator clauses, it will be left with larger profits which, in times of rising prices and boom conditions, are likely to be used to expand inventories or plant and thus contribute to the inflationary spiral. It is, therefore, difficult to say whether, on balance, escalator clauses expand aggregate demand more rapidly than would otherwise be the case during boom periods.

Ability to Pay

Union concern over increases in the cost of living is understandable, since such changes affect the real earnings of union members. On the other hand, such general changes in the economic environment do not necessarily mean that the employer is in any position to pay higher wages. For example, even in 1957 when the cost-of-living index was at an all-time high, the textile and fur industries were in a depressed condition. For employers in such industries the only significant criterion in determining wages was ability to pay.

Ability to pay is a major consideration in wage negotiations for most firms in good times and bad. Determination of ability to pay is, however, a highly controversial subject. Management, while often pleading inability to pay, is reluctant to make this an issue of fact and permit union representatives to have "a look at the books." Management fears in this regard are based on the belief that such a move would be a prelude to union interference in business operations and encroachment on the whole sphere of managerial prerogatives. The United States Supreme Court has ruled in the case of a dispute between the Truitt Manufacturing Company and a steelworkers' union that refusal by an employer to substantiate a claim of inability to pay increased wages *may* support a finding of failure to bargain in good faith.¹⁴ The Court specifically stated that it was not holding that in every case in which economic inability is raised as an argument against increased wages, it automatically follows that the employees are entitled to substantiating evidence. The Court said that each case depends on its particular facts.

Even if company financial records were to be opened as part of negotiations, the information contained in them would still be open to differences in interpretation. Furthermore, it is prospective earnings, not past earnings, which is the relevant consideration in wage determination, and the changing economic situation makes it difficult to estimate

¹⁴ *NLRB v. Truitt Mfg. Co.*, 351 U.S. 149 (1956).

what the next year will bring in many industries. Ability to pay will ordinarily be more capable of accurate determination and will be more stable from year to year in the case of a company in a monopolistic market position than one in a highly competitive position.

There is considerable difference of opinion between unions and management, and among economists as well, as to the extent to which differences in ability to pay should be reflected in differences in wage rates. On the one hand, union representatives frequently argue that workers have to pay the same price for their necessities of life whether they work for a profitable firm or a less profitable one and therefore should be paid the same wage in all companies for similar work. Yet unions have withdrawn from this position where it appeared that such a policy would force marginal firms out of business and thus produce unemployment among union members.

Management representatives frequently use the "ability-to-pay" argument to obtain special concessions for their particular firms, particularly where for one reason or another their cost of operation is higher than that of competitors. For example, a firm may have antiquated machinery and be unable to finance the purchase of new improved equipment; or it may be in a mining operation and be working poorer grades of ore than competitors. In other cases, the reason for high costs and low profits may be more difficult to ascertain and may simply be due to less efficient management.

Obviously the setting of different wage rates in an industry corresponding to the different level of profits in various firms would penalize initiative and good management and would, in effect, offer a subsidy to the inefficient operators. On the other hand, a strict policy of wage uniformity based on the rates payable by the most efficient producer would force marginal firms out of business. Unions have had to choose between these two extremes and adapt their wage policies to the peculiar conditions existing in each industry. In most instances they have made some concessions in the way of differentials for smaller, less profitable firms, but, as has already been stated, their preference is for wage uniformity.

Union Efforts to Improve Ability to Pay. American trade-unions have demonstrated an enormous capacity for improving the employer's ability to pay. Faced, on the one hand, with the demands of union members for improved wages and working conditions and, on the other hand, with the response of management that the ability to pay is lacking, union leaders have initiated a variety of programs designed to improve the employer's profit position. One of the most obvious of these is union-

management co-operation to reduce production costs. It, however, is only one of many. For example, during World War II, many unions joined employers in appeals to the Office of Price Administration for price increases so that the employers could grant wage increases. The railroad unions have on several occasions appealed to the Interstate Commerce Commission to raise railroad rates so as to permit wage increases. In 1948 the Transport Workers' Union actually promoted higher bus and subway fares in New York City in order to secure sizable wage increases.

Unions have also attacked the problem of employer profit margins on other fronts. A number of unions have engaged in advertising in order to stimulate demand for the product of the industry in which they operate. The United Hatters, Cap and Millinery Workers' Union has developed an intensive advertising program to persuade people to wear hats. The International Ladies Garment Workers' Union has spent considerable sums to promote New York City as a style center in order to fight shrinking employment in the dress industry there. Similar advertising has been carried on by the International Association of Machinists, the Brotherhood of Painters, the International Typographical Union, and the Marine and Shipbuilders.

A number of unions have utilized political pressure to promote legislation designed to keep their industry in sound condition and hence able to pay increased wages. The railroad unions have actively and successfully lobbied for such things as restrictions on the loads motor trucks can carry, reduction of federal aid to other forms of transportation, and even elimination of railroads from antitrust legislation. Many unions, including those in the glass industry, the pottery workers, and coopers, and the printing trades, have sponsored tariffs to reduce foreign competition. Also aimed at affecting the demand for industry production is the union label which essentially is a device for differentiating the product and thus increasing the demand.

Union policy affecting demand and prices has not always kept within the law. The Photo Engravers and the Electrical Workers have made collusive agreements with manufacturers which have had the effect of keeping out of areas nonlocal goods so that prices and wages in the local area may be raised. In Seattle, Washington, particularly, but also in other areas, the Teamsters' Union has picketed employers who have cut prices on the grounds that price cutting will mean a wage cut.

In the garment trades it has become quite common for the union to set standards for the price at which the garment may be sold. The objective here is to prevent small manufacturers, who deal with a few large retailers and wholesalers, from reducing their prices and making it up

on kickbacks on other noncontractual reduction of wages. In addition, in the garment trades the unions traditionally negotiate with the manufacturers but make wage conditions binding on the subcontractors who do not take part in the negotiations. This they found necessary to prevent wage cutting by subcontractors from destroying union standards.

In the barber trade, the union bargains almost solely in terms of prices rather than of wages. The reason is that the wage is determined almost exclusively by the price. Thus there is continual pressure on the part of unions to force up the price of haircuts.

In many states the Barbers' Union has been able to go further and secure the adoption of legislation setting up commissions which had the effect of stabilizing prices of haircuts, frequently in the upward direction. The success of the United Mine Workers during the 1930's in promoting legislation which pushed up the price of coal so that wages could be increased was of a similar nature.

These are some of the many examples of union ingenuity in improving employers' ability to pay. The wide extent of union interests in employer profits and in the demand for the product is a direct result, on the one hand, of the pressure on unions by the membership to find ways and means of improving wages and working conditions and, on the other hand, of the realization on the part of union leaders that improved wages and working conditions can only be secured from a profitable enterprise.

Other Criteria in Wage Determination

There are a number of other criteria which are frequently applied by both management and labor in the process of wage determination. For example, when unions seek a reduction in the workweek, the important criterion frequently becomes maintenance of take-home pay despite the reduction in hours worked. In some cases, the new hourly wage rate is simply the arithmetical result obtained by dividing the take-home pay prior to the reduction in hours by the reduced number of hours worked. Improvement in productivity is another circumstance which is receiving greater emphasis from labor and has already been recognized as a basis for wage adjustment by General Motors Corporation in its historic 5-year contract with the United Automobile Workers, which provided for an annual "improvement factor" based upon anticipated improvement in man-hour productivity.¹⁵

The criteria explored in the foregoing discussion play an important

¹⁵ The pros and cons of the annual improvement factor are discussed in detail in Chapter 15.

role in narrowing the range of possibilities in wage determination. In many cases, however, the wage which is finally agreed upon is a reflection of sheer bargaining power, and talk of intraindustry standards or cost-of-living changes is mere rationalization pressed into service to support demands or concessions which need justification. Even arbitrators write these criteria into their opinions to support decisions already arrived at for other reasons.

This is not to say that criteria do not have their place in wage negotiations. Man prides himself on his rationality. Explanations are needed to fortify needs, wants, or demands, and to gain support for them. Every battle must have its slogans. The slogans should not, however, be confused with the practical realities of union-management wage determination, however important they might be in crystallizing these realities in the form of policies.

UNION ATTITUDES IN WAGE DETERMINATION

Because strong unions dominate many of our major industries, union attitudes toward wage determination have a significant influence upon the structure of wages in our economy. Union attitudes, as transmitted to management at the bargaining table, are a mixture of basic union needs filtered through and molded by the personalities of the union bargaining representatives. The membership of a union may be interested in obtaining the highest possible hourly wage rate, or they may be more interested in the highest weekly earnings. Above all there is the need of the membership for policies which will hold the union together and perpetuate it in the face of stresses within and attacks from without. Union officials sense these needs and co-ordinate them with their own. Most union officials have come up through the ranks the hard way, and they do not like the idea of going back to the workbench or donning the apron. They have usually risen to positions of power by being fighters, and they know that the continued loyalty of the membership and the continued existence of their positions as officials depends upon their belligerence to management and their success in achieving substantial gains for their membership. Their job is to sense the pulse of the membership and to give them what they want.

Union Attitudes toward Wage Cuts

Union leaders are elected to secure economic benefits for their constituents. In depressed times, however, they may be faced with demands for wage decreases. Generally, unions oppose such demands or only yield

to them with the utmost reluctance when employer bargaining power is obviously overwhelming. There are many reasons for this attitude, both economic and political.

A basic reason for union opposition to wage reductions is that there is no assurance that a given change in wages will be associated with a corresponding change in labor cost, or with any predictable change in costs or prices. Unit labor cost and wage rates or earnings do not necessarily move together, and in various industries they have frequently moved in opposite directions. The reason for this is that unit labor cost is a function of productivity (output per man-hour) as well as hourly earnings. Since productivity may be affected by numerous changes in technology, organization, human efficiency, and intensity of labor utilization, which unions can neither predict nor control, it is unreasonable to expect union leaders to attempt to give as much weight to the effect of wage cuts on labor costs as many economists and businessmen believe desirable.

The other factors determining employment besides labor costs (consumer demand, selling price, percentage labor costs are of total costs) are likewise subject to considerable variation and uncertainty. The lack of knowledge and the indeterminateness and general uncertainty of future developments in all the variables explain to a great extent why unions resist wage cuts and attempt to bargain essentially "with an eye to non-cyclical circumstances."¹⁶ Practically speaking, a union leader can ill afford the political repercussions of negotiating a wage cut avowedly to decrease or to prevent further unemployment when neither he nor the employer can be at all certain that lower wages will have the hoped-for result.

Unions resist employer demands for wage reductions in depressions because wage policy, by and large, is made by the employed rather than the unemployed union members. Even if there is reason on the part of the leadership to believe that the demand for the plant's labor is elastic, the employed members might prefer to pursue a wage policy of maximizing wage rates rather than employment. This is clearly the policy of the United Mine Workers and, generally, of most railway and building-trade unions.

Finally, many unions prefer to maintain rates and wink at under-cutting, kickbacks, and other forms of concealed reductions. Such concealed reductions are likely to become common as unemployment rises and competition for jobs increases. By permitting them to continue un-

¹⁶ J. T. Dunlop, *Wage Determination under Trade Unions* (New York: Macmillan Co., 1944), p. 68.

molested (and the union may be powerless to interfere if unemployment is severe), the union preserves its rate. This, in turn, eases the return to predepression standards once economic conditions improve and the union can crack down on underhand wage cutters. If, on the other hand, wage decreases have been negotiated, the road back is less smooth.

The quoted base rate is regarded by a union as a symbol of its achievements and, except under special circumstances, is defended stubbornly against cyclical reductions.¹⁷ This not only explains why unions prefer to permit concealed reductions rather than to negotiate decreases but also accounts for union willingness to bargain away preferred working conditions in order to maintain the basic rate.

Despite their firm opposition to wage cuts, unions have agreed to them on many occasions. There have been special reasons in nearly every case. Often it has been pressure of nonunion competition. The American Federation of Hosiery Workers took a cut of 35–40 percent in 1931 in order to prevent almost complete elimination of union firms. The decrease had to be large enough so that the lower-paying nonunion firms could not match it. This agreement also included a new union-shop provision, thereby increasing the leaders' ability to carry out the wage reduction, which they did despite some protest strikes.

Another reason for the unions accepting wage cuts is found in pressure from the unemployed. This makes itself felt in two ways. The unemployed members may believe that a wage reduction will increase their chances of employment. As their number grows, the pressure on the employed members to accede increases. In addition, the existence of unemployment reduces the union's bargaining power in negotiations. The fear that the unemployed will break a strike and that the employed will not hold out if a strike is called has impelled unions to agree to reductions.

When a wage reduction appears inevitable, unions will attempt to secure some compensations. As already noted, the American Federation of Hosiery Workers secured the union shop in 1931. When the railroad unions agreed to a 10 per cent reduction effective February 1, 1932, they mitigated its effects by securing a corollary agreement that the reduction was to be temporary. This aided these unions no little to return to pre-1932 wages in 1934.

Unemployment and Union Wage Policies

As has been pointed out, union leaders are extremely reluctant to accept a wage cut in the hope that it will increase employment. The

¹⁷ *Ibid.*, p. 67.

wage cut means an immediate hardship to union members and to some extent constitutes a blot on the record of union leadership. The beneficial effects, if any, of the wage reduction may never become evident. Therefore, when a wage *cut* has to be weighed against the possibilities of increased unemployment at existing rates, most union leaders would argue in favor of maintenance of wages.

Is the same emphasis on wages and lack of recognition of employment reactions true when wage *increases* are under consideration? Under what circumstances is a limit set on wage increases by union recognition of the possibility that higher wages would endanger the competitive position of the firm and thereby create unemployment among union members?

There has been some controversy on this subject among economists in recent years. Some economists argue that the effect of a wage increase upon employment is unpredictable before the fact, and after the increase has been granted it is impossible to determine what the effect of the increase has been on employment due to the constant fluctuation of business conditions. Therefore, it is argued, union leaders cannot normally take employment reactions into consideration in wage negotiations.¹⁸

On the other hand, other economists contend that there are a number of industries where conditions exist which require that union leaders take account of possible employment reactions in making decisions as to wage policy.¹⁹ This is true where an industry is only partially unionized and imposition of excessive rates on organized firms will cause them to lose business to the nonunion sector of the industry. Similar concern with the employment effects of increased wage costs will also be found in industries characterized by strong competition in the product market and in industries where it is relatively easy for employers to move their plants to other areas.

Areas in which these conditions exist are by no means exceptional. Employment in five industries where there is clearly no single firm control of the product market, and where competition among firms is keen—textiles, apparel, leather goods, furniture, and lumber—amounts to over one quarter of total employment in manufacturing.²⁰ The textile and apparel industries have also been characterized by a movement of new capital into nonunion areas by reason of the high costs imposed by union wage pressure in organized areas. Industries in which union organization

¹⁸ A. M. Ross, *Trade Union Wage Policy* (Berkeley, Calif.: University of California Press, 1948), p. 80.

¹⁹ G. P. Shultz and C. A. Myers, "Union Wage Decisions and Employment," *American Economic Review*, Vol. XL, No. 3 (June, 1950), p. 379.

²⁰ *Ibid.*, p. 378.

is only partial also are important in terms of workers employed. It is estimated that less than 50 per cent of workers in the following manufacturing industries are covered by union agreements: baking, chemicals excluding rayon yarn, flour and other grain products, furniture, hosiery, jewelry and silverware, knit goods, leather luggage, handbags, novelties, lumber, paper products, pottery including chinaware, shoes, cut stock and findings, stone and clay products, and silk and rayon yarn.

Industries which are between 80 and 100 per cent organized today account for less than half of all gainfully employed workers. Therefore, there are many industries in which unions must take account of employment reactions simply because such consideration is essential to the continued existence and strength of the union. Moreover, if business becomes more competitive as the artificial stimulus of armament production is reduced, unions will find that wage increases cannot as easily be passed on to consumers and that the employment effects of wage pressure must be reckoned with. While admittedly it is difficult for union leaders to anticipate what employment reactions will follow upon particular wage policies, their lack of concern for such reactions must be viewed against the unusual economic circumstances and tight labor market which prevailed during World War II and the postwar years. In a less formidable economic environment, union leaders may find it necessary to change their attitudes on this important issue.

Wage Policy as a Tool

When a union requests higher wages, usually it is aiming at precisely that. Often, however, its real objective may be something else. For example, unions commonly utilize wage slogans in membership drives. When the CIO put on its big mass-production industry drives in 1936-37, it played up demands for higher wages. "Join the union for a buck; get a buck a day increase," has been a common rallying cry.²¹

Unions are not alone in using wage policy as a tool in organizing drives. Employers often grant wage increases to stymie unionization. In 1936-37, United States Steel gave increases to forestall unionization. Then it was forced to grant more wage increases after the union was recognized.

Wage policy may also be used to allocate income. Most union contracts provide overtime pay at the rate of time and one half for all work in excess of 8 hours a day or 40 hours a week. Likewise, premium pay is

²¹ This section owes much to J. T. Dunlop, *Wage Determination under Trade Unions*, *op. cit.*

usually provided for work on Saturdays, Sundays, and various specified holidays.

Although in times of full employment penalty overtime provisions tend to increase the individual worker's wage bill, historically the main union objective has been, once hours were reduced to a reasonable level, to use penalty overtime provisions to discourage employment of the same workers beyond the regular workweek and thus to encourage management to spread the work among more employees. In other words, instead of using two shifts of 12 hours each for around-the-clock operations, penalty overtime encourages the use of three shifts of 8 hours each. In this way wage policy is utilized to spread work or to allocate income among more employees in the union.

Penalty overtime for Saturday or Sunday as such, however, is also a means of penalizing employers for depriving workers of their ordinary leisure hours. The use of wage policy to secure paid leisure is also illustrated by the prevalence with which paid vacations and paid holidays now appear in union agreements. The drive for paid vacations began in the late 1930's. Not infrequently unions gave up opportunities to win wage gains in order to secure paid vacations. Undoubtedly, this was in line with the wishes of the workers. Many employees had had considerable unpaid leisure during the depression and to them a paid vacation had a peculiar satisfaction which placed it above a mere wage increase on their preference scale. Moreover, since paid vacations have traditionally been the perquisite of the upper classes, the employees saw in them a social as well as an economic gain. The situation with respect to paid holidays, which became a major objective of union policy during World War II, has been similar.

"Fringe" issues, including not only vacations and holidays but sick leave and benefit programs as well, are often pushed by union leadership because of their prestige value to the leadership. In the post-World War II years, benefit programs became a vogue. The union leader who did not secure such a plan for his membership was not "keeping up with the Joneses" in the social stratum of union leadership. Hence it was not uncommon to see more stress placed on benefits than on wages, although inflation continued to make wages as such the dominant issue.

The steel and auto unions have used bargaining pressures for wages and fringe benefits to effect broad social improvements. Thus the drive for pensions in 1949-50 was intended in part to get industry support for raising social security payments. The 1955 drive for the guaranteed annual wage plan was aimed at evening out seasonal fluctuations in employ-

ment and obtaining industry support for increased state unemployment compensation payments.

In Chapter 6, we noted how wage policy could be used to control the rate of technological change. The rate secured by the union for work on a new machine could make the machine more or less economical to introduce and thus go a long way to determine the speed with which it was introduced. We noted there also that wage policy could be utilized to control entrance to the trade. A high rate for apprentices tends to discourage their use; a low rate to encourage their use.

Wage policy may also be utilized to control working conditions. Longshoremen receive triple time for loading explosives on ships and double time for loading such unpleasant cargo as fertilizer. Shipyard welders are paid extra compensation for the nasty job of welding in the hold of the ship. Penalty rates of one kind or another are frequently demanded by unions not only for dangerous and unpleasant work but also to encourage managerial improvement of such conditions.

Along the same line has been the development of shift differentials. During World War II, it became quite common to pay 5 cents per hour or a 5 per cent differential for the "swing" or 4 P.M. to 12 midnight shift, and a differential of 10 cents an hour or 10 per cent for the "graveyard" or 12 midnight to 8 A.M. shift. This practice has been continued since the war. The rationale for these provisions is that working odd hours upsets personal and family life to such an extent that extra compensation should be paid.

It should be noted that in all of the foregoing matters, wage policy was used primarily not to secure increases but to achieve other objectives. If one fails to realize that wage policy is a tool as well as an end, union wage policy becomes incomprehensible. Moreover as employer actions in raising wages to keep out unions illustrate, management also has fully realized that wage policy is both a tool and an end.

POWER ASPECTS OF WAGE DETERMINATION

In organized firms, wage determination involves a balancing of power. It reflects the union's power to strike and to inflict damage by a strike and the company's ability to withstand a strike and impose loss of earnings on employees. Even when a strike is not threatened, the power of a union to strike makes itself felt at the bargaining table. As one writer puts it, unions regulate the wage rate "not by sustained control of sup-

ply, but by control of the buyer, who is the employer. The technique is the strike."²²

Union bargaining power depends upon three basic elements: the right to strike, the ability to strike successfully, and the amount of loss which can be inflicted on the employer by a strike. The legal right to strike, of course, is a basic prerequisite to union power. If the union contract in question is a 2-year contract with a wage reopening after 1 year and the contract contains a no strike clause, the union may not be able to strike lawfully to enforce its wage demands during its term. A strike in violation of a contract may leave the union open to a suit by the employer for damages for breach of contract, or an injunction may be obtained to halt the unlawful work stoppage. Furthermore, when a union strike is unlawful, other unions frequently will not honor the picket line and therefore the effectiveness of the strike is weakened. Obviously when such circumstances exist, the union's bargaining power is limited.

If the union has the right to strike, the next consideration is its ability to strike successfully. This will depend upon such circumstances as the cohesiveness of the union, the degree of internal dissension, the possibility of raiding by rival unions, the amount of funds in the union treasury, the ability of the union to pay strike benefits, the extent to which strikers can obtain employment or compensation elsewhere, and, of course, the degree of support by the membership for the union demands. Even such circumstances as the time of year will affect a union's ability to strike successfully. Employees don't mind losing a few weeks' work on strike in the summertime, but they are loath to do so 2 weeks before Christmas!

The third important factor which determines the bargaining power of the union is its ability to impose a substantial hardship on the employer by calling a strike. This will depend upon the nature of business of the employer, the position of the firm in the industry, its financial resources, and similar circumstances. If a company is engaged in retail trade, for example, it is extremely vulnerable to a strike because any business lost through a shutdown cannot be regained at a later date. People will not stop eating while a restaurant is on strike. They will simply eat their meals elsewhere. On the other hand, if an automobile company goes on strike, its permanent loss of business might be negligible. For a time, customers can be supplied out of inventory. Thereafter, many customers will wait for a particular make of car until production is resumed. Sometimes

²² C. E. Lindblom, *Unions and Capitalism* (New Haven: Yale University Press, 1949), p. 58.

a strike may afford such companies a convenient excuse to curtail production and thus give dealers time to work down excessive inventories.

The power of the union to hurt the employer will depend upon the financial position and the profitability of the company. In some industries, companies work on narrow profit margins and have little working capital. They rely on continuing sales to enable them to meet their bills, and any interruption of production has to be avoided at all costs. In other cases, companies are financially strong and can stand a long strike. Frequently, large companies have a number of plants or branch operations, and if a strike shuts down only part of their operations, they can withstand a long strike by offsetting losses in one area with profits in another.

Just as a union's ability to strike successfully depends in part upon the time of year, so does its ability to impose losses on the employer. The threat of a strike is obviously most effective when the employer is going into his peak season. If contract negotiations break down during a slack season, the employer may not care about a strike since he may have been thinking in terms of curtailing production and laying off employees anyhow. Both unions and management are keenly aware of the strategic importance of having contract negotiations occur at an advantageous time, and there is always a good deal of sparring over the issue of when a contract should expire or come up for renegotiation.

The power of a union to interrupt production schedules is relevant to the concept of status which one management representative has suggested is becoming increasingly important in management thinking. Industry today is so complex that commitments for supplies must be made many months in advance. Every supplier wants to build a reputation for dependability in meeting such commitments to his customers. Likewise, when a company produces for the consumer market—as in the automobile industry—each company wants to maintain its status in the eyes of the consumer. If it is shut down by a strike, it will lose its usual share of the market and its prestige will suffer. As one writer puts it, "status as a dependable supplier, either to big scarce customers or to millions of adherents to brand (corporate) names vies with price and profit as a dominant factor in managerial wage decisions."²³ Many companies are more concerned about the effect interrupted production will have on their customers than they are on the cost-price aspects of a wage demand. There is of course an upper limit at which the latter consideration becomes para-

²³ Leland Hazard, "Wage Theory: A Management View," in G. W. Taylor and F. C. Pierson (eds.), *New Concepts in Wage Determination* (New York: McGraw-Hill Book Co., Inc., 1957), pp. 32-50.

mount, and this can usually be delineated in terms of relationships with other firms in the industry.

An employer's tax situation can often be of crucial importance in determining the balance of power in wage negotiations. During World War II and the Korean war, when the excess profits law taxed profits in excess of a certain minimum at 80 per cent, the principal loser by a strike was the United States Government, which lost the additional tax revenues which would have been payable had companies produced more goods and earned more profits. Some companies which were in or were approaching excess profits tax brackets felt that since additional earnings would be taxed at confiscatory rates, a strike at such a juncture was a cheap way of "getting tough" with the union.

The loss which can be imposed upon a firm by a strike depends to some extent upon the class of labor involved and its importance in the entire scheme of production. It has long been recognized that the smaller the cost of a factor of production is relative to total costs and the more essential it is to production, the higher its price can be pushed up without affecting the amount of the factor which employers will utilize. In every plant or establishment there are certain workers with relatively scarce skills who can paralyze production by a walkout. If their wages constitute only a small fraction of total costs of operation, it is understandable why an employer will frequently be willing to grant such workers large wage increases as the price of uninterrupted production. It was recognition of this principle which led the American Federation of Labor to organize skilled workers along craft lines.

Today, however, even a strike of unskilled workers can be as effective as a walkout of skilled craftsmen. This is the result of two developments: the refusal of other workers to cross a picket line and the decline in the use of strikebreakers. Today, a walkout of janitors and sweepers in a huge industrial establishment can, if it is a lawful strike, cause a complete shutdown and a forced layoff of thousands of workers. The right to strike has thus given great power even to unskilled groups who are ready to use this power militantly.

All of the foregoing considerations must be weighed by the union representatives in presenting union demands at the bargaining table. They must estimate, too, just how long a strike might result, what is the possibility of government intervention, and what the chances are that employee dissatisfaction resulting from a long strike might endanger their own positions. Management must likewise consider the strength and weaknesses of its own bargaining position. The wage which is ultimately

arrived at will reflect a balancing of these power considerations, the profitability of the firm, general supply and demand conditions, and the personalities of management and union representatives.

SUMMARY

Wage determination in the American economy is a complex process. It reflects the influence of many forces. Productivity, market position, profit levels, size of firm, management ability, size of community, and regional conditions—all of these factors affect wage determination in both organized and unorganized firms. Criteria such as intra-industry and interindustry standards and cost-of-living changes provide guideposts to wage determination in individual firms. Union bargaining power is a major determinant of wage levels in organized firms, but it is not the only element and its importance will vary depending upon the stage of the business cycle, the strength of the union, the personalities of union and management representatives, and other circumstances referred to in the foregoing discussion.

QUESTIONS FOR DISCUSSION

1. Discuss the connection between the internal and external wage structure of a firm. What is the significance for collective bargaining of the concept of "wage clusters"?
2. If a union has completely organized an industry, to what extent, if any, should a particular employer's ability to pay be a factor in wage negotiations?
3. Discuss the significance of key wage bargains in wage determination in the United States.

SUGGESTIONS FOR FURTHER READING

DUNLOP, J. T. *Wage Determination under Trade Unions*, chap. iv, pp. 45–73, New York: Macmillan Co., 1944.

A discussion of the wage policies of trade-unions, the problems which arise in their formulation, and the objectives of union wage policies.

ROSS, A. M. *Trade Union Wage Policy*. Berkeley, Calif.: University of California Press, 1948.

An analysis of wage policies of unions, with emphasis on the fact that a union is a political agency operating in an economic environment.

TAYLOR, G. W., and PIERSON, F. C. (eds.). *New Concepts in Wage Determination*. New York: McGraw-Hill Book Co., Inc., 1957.

A series of articles dealing with the problem of wage determination by well-known economists who apply the most up-to-date theoretical techniques and current statistics in discussion of this problem.

Chapter 12

THE PROBLEM OF UNEMPLOYMENT

One of the principal problems of our economic system as it has developed in the United States, and in other countries of the world as well, has been its inability continuously to provide full employment for all workers seeking employment in the labor market. In this and the three following chapters we shall be concerned with various aspects of the problem of unemployment. In this chapter we shall consider some of the problems involved in the definition, measurement, and classification of unemployment and shall also touch on some of the means which might be utilized to achieve a more stable level of employment in our economy. In the following three chapters we shall inquire into possible repercussions of wage pressure—and in particular of union wage pressure—upon employment. Are high wages the road to full employment? What wage policy is best designed to achieve recovery in employment during a depression? Should money wages rise faster or slower than man-hour output to facilitate the attainment of full employment? These and related issues concerning the level of employment will be the subject of our attention in the following chapters.

UNEMPLOYMENT: PRICE OF A FREE LABOR MARKET

In coming years we shall hear much about alleged cures for unemployment. Supplementary unemployment benefits, planned technological change, shortening of hours of work, double budgets for government—all of these and other programs have as their objective the elimination or alleviation of unemployment. Such programs, coupled with intelligent government fiscal policy, undoubtedly can do much to reduce the incidence of unemployment. However, it is important to realize at the outset that, within the framework of our economic system, there are limits to the extent to which employment can be stabilized.

Irregularity of employment is, in a sense, one of the costs which a

system of free enterprise exacts in return for the privileges which it bestows. Thus, the American worker has greater liberty than a worker anywhere in the world to shift his place of employment in order to better his economic welfare. This is no empty gift—on the contrary, it is a privilege of which the American worker has availed himself. For example, it is estimated that from a fourth to a third of the workers covered by Old Age and Survivors Insurance under the Social Security Act (see Chapter 19) work for more than one employer during a year.¹

This unrestricted privilege to change jobs and employers freely without permission from a government board is the most prized gift of a free labor market. But this same freedom of the employee to move is balanced by the freedom of the employer to hire and fire, with the result that the individual employee is subjected to the vicissitudes of his current employer's business fortunes. Similarly, the absence of a central planning board integrating the production and employment policies of various firms and industries means that in certain industries there may be a temporary surplus of labor due to seasonal and other changes in demand, while there are, at the same time, shortages of labor in other areas. Likewise, the un-co-ordinated investment policies of thousands of independent employers produce a flow of investment which proceeds by fits and starts, with concomitant fluctuations in employment and income, thus giving rise to the familiar pattern of fluctuations known as the business cycle.

UNIONS AND ECONOMIC STABILITY

Unionism represents a reaction on the part of the laboring class to the hardship produced by the unrestricted working of the free labor market. Undue emphasis upon the wage policies of trade-unions has tended to obscure the fact that one of the fundamental reasons for the growth of organizations among the working population has been the need felt by the worker for some organization, bigger and stronger than himself, which could afford him security against unwanted change. Capitalism, it has been said, gives a promise of security which it has proved incapable of fulfilling. John Doe gets a job at the X steel mill. He is told that if he works hard he may be promoted some day to foreman—"Look at the president! He worked his way to the top!" John Doe buys a home which the capitalistic system enables him to do out of his high wages. He buys radios, an automobile, a refrigerator, and other goods on credit. Then depression strikes, and he finds himself unemployed.

¹ W. S. Woytinsky and Associates, *Employment and Wages in the United States* (New York: Twentieth Century Fund, Inc., 1953), p. 388.

The fear of such insecurity—of living always at the whim of the foreman or boss—explains why unions have been able to entrench themselves even in paternalistic firms which have paid high wages and given their employees many pecuniary advantages.

Can unions, through their own policies and in co-operation with management, increase and stabilize employment? This avenue of approach to the problem of stability deserves the attention of both business and labor alike; for the alternative—increasing regulation and planning by government bureaucracy—may ultimately spell the end of private enterprise and the liberties which it confers.

NEED FOR UNEMPLOYMENT STATISTICS

A variety of social groups are interested in ascertaining the volume of unemployment. The AFL-CIO maintains statistical series on unemployment, and the problem is also under constant study by various business-sponsored or independent research organizations. The New Deal spawned a host of governmental agencies which have become a permanent part of our social fabric and which require employment statistics in order to make plans for their operation. Such, for example, are the agencies concerned with social security, unemployment insurance, public works, and relief programs. These agencies, it will be noted, are largely designed to deal with the problem when unemployment has already become a grim reality. But in recent years there has been increasing interest in the role which government can play in combating unemployment at its inception. This approach was exemplified in the establishment in 1946 of a Council of Economic Advisers whose function is to advise the President on economic matters, to make annual studies of the outlook for employment and production, and to report to the President on the possibility of integrating government investment and expenditure programs so as to achieve the maximum employment in connection with the efforts of private business.

The fact-finding endeavors of the President's Council of Economic Advisers, as well as of other groups and students interested in this labor problem, are handicapped at the outset by the difficulty in adequately defining the phenomenon of unemployment. Logically, there are two distinct problems involved: one of definition, the second of measurement. But for practical reasons, as will become apparent in the following discussion, the necessities of measurement have wielded controlling influence on choice of definition.

WHAT UNEMPLOYMENT IS NOT

Unemployment is, in a sense, the negative aspect of the economic process; instead of producing the customary stream of goods and services, the economic machine has somehow, through a defect of its internal mechanism, gone into reverse and produced not goods and opportunities for creative work but waste and idleness. The fact that unemployment is a negative phenomenon, however, should not suggest the conclusion that it is simply the converse of employment. The problem of definition and measurement is more complex than that. It will serve to focus attention upon the crucial criteria in the measurement and delimiting of unemployment if we first consider what unemployment is not:

1. Unemployment is not idleness. The man who sells apples on the street corner when his plant shuts down is unemployed, but he is not idle. Conversely, the retired postman, the employee on vacation, the habitual tramp are all members—for the time being at least—of the leisure class, but they do not consider themselves unemployed.

2. Unemployment is not the opposite of employment. The automobile worker who is laid off and takes a job as a house-to-house canvasser may consider himself unemployed, though he is working. Similarly, for certain purposes it may be proper to consider skilled workers who are forced to take unskilled jobs as a result of a technological change, as victims of technological unemployment. Some writers have called this stopgap employment “disguised unemployment.”² In our economy, the relative ease with which an unemployed person can become an independent entrepreneur on a small scale—even if he only sells shoe laces on a street corner—tends to obscure the line between employment and unemployment. Disguised employment, therefore, is a factor to be borne in mind in any appraisal of unemployment statistics. Because of the practical difficulties involved, however, unemployment estimates do not ordinarily take account of this phenomenon in their calculations.

3. Unemployment is not the difference between the theoretical (potential) total supply of labor, including all marginal groups, and the number of persons actually employed. If this definition were used, unemployment in the United States would hardly ever be below 12 or 13 million.³ The experience of the war years indicated that in times of ex-

² J. Robinson, *Essays in the Theory of Employment* (New York: Macmillan Co., 1937), p. 84.

³ W. Woytinsky, “Controversial Aspects of Unemployment Estimates in the United States,” *Review of Economic Statistics*, Vol. XXIII (1941), p. 68.

treme labor shortage, high wages will call into the labor market many persons who do not ordinarily consider themselves part of the labor force. Thus, in World War II, 75-year-old men came out of retirement to work as messengers for Western Union, while married women left their kitchens to build bombers in West Coast aircraft plants. Although such persons might be considered part of the labor force for purposes of drawing up a war mobilization program, they should not ordinarily be considered in estimating the seriousness of the problem of unemployment in a peacetime economy; for with the return of normal times, these emergency additions to the labor force usually return to the kitchen and the park bench and do not constitute a labor force which requires our attention.

The potential presence of these groups in the labor market, however, calls attention to one of the most perplexing problems in the measurement of unemployment; for there is a wide variety of such fringe groups which are either on the verge of entering or leaving the labor market, and their inclusion or exclusion from the labor force will materially alter the statistical conclusions of any survey. Thus, for example, there are approximately 2 million new workers who enter gainful pursuits each year.⁴ Consequently, at the time that any count is made of unemployment there will be several hundred thousand persons in their teens who have never held jobs, who may not yet have actively engaged in seeking work, but who nevertheless would be part of the normal increment to the labor force. A similar problem is posed by marginal workers of low efficiency who can secure employment only in good times; college students who work in the summer to pay their way through school; seasonal laborers who may be in and out of the labor market several times within one year;⁵ and women who have left their employment for child-bearing but who might return to work if an attractive opportunity presented itself.

DEFINITION OF UNEMPLOYMENT

What then is unemployment? Obviously one definition cannot be adequate for all purposes. Since unemployment is a practical problem in which many governmental and private agencies are interested, it is convenient to define unemployment in such a manner as to simplify the prob-

⁴ *Ibid.*, p. 68.

⁵ Seasonal workers are frequently drawn from the "reserve" rather than the regular labor force. For example, in 1944, when unemployment averaged a record low of only 840,000, agricultural employment nevertheless had a net seasonal upswing of 3 million between January and July. See *Monthly Labor Review*, Vol. LXIV (1947), p. 6.

lem of statistical measurement, yet at the same time to provide a figure which includes those groups whose status is of most concern to various social agencies.

Bureau of Census Definition of Unemployment

The Bureau of Census of the United States Department of Commerce adopts what is essentially a categorization in order to provide a meaningful statistical count of the number of unemployed. As can be seen from Table 18, the Bureau is not concerned with the total population in its analysis of employment status. Starting with the total population of continental United States, the Bureau excludes (1) persons under 14 years of age; (2) persons who are inmates of penal institutions, homes for the aged, infirm, and needy, mental institutions, tuberculosis sanatoriums, and similar institutions; and (3) members of the Armed Forces. The resultant net figure is referred to in Table 18 as the "civilian non-

TABLE 18
EMPLOYMENT STATUS OF POPULATION OF UNITED STATES: JUNE, 1957
(Thousands of Persons Fourteen Years of Age and Over)

<i>Employment Status</i>	<i>Total</i>
Civilian noninstitutional population	117,564
In civilian labor force	69,842
Employed	66,504
At work	63,146
With a job but not at work	3,358
Unemployed	3,337
Not in labor force	47,722
Keeping house	34,127
In school	2,945
Unable to work	1,814
Other	8,836

SOURCE: U.S. Bureau of Census, *Current Population Reports*, Series P-57 (July, 1957), p. 13.

institutional population fourteen years of age and over." This group which included 117,564,000 persons in June, 1957, comprises many men and women who are not part of the labor force and who therefore should not be included in any compilation of employment and unemployment statistics. However, the dividing line between persons in and not in the labor force is a difficult one to draw and, as will be pointed out below, the Bureau as recently as February, 1957, adopted certain changes in definition which had the effect of excluding from the labor force persons who were formerly classified as employed!

The civilian labor force is divided between those persons who are

“employed” and those who are “unemployed.” The current Bureau of Census definitions of these terms are as follows:

Employed. Employed persons comprise those who during the survey week were either:

- a) “at work”—those who did any work for pay or profit, or worked without pay for 15 hours or more on a family farm or business; or
- b) “with a job but not at work”—those who did not work and were not looking for work, but had a job or business from which they were temporarily absent because of vacation, illness, industrial dispute, or bad weather, or because they were taking time off for various reasons.

Unemployed. Unemployed persons include those who during the survey week:

- a) did not work at all and were looking for work; or
- b) did not work at all and were
 - (1) waiting to be called back from layoff;
 - (2) not in school and were waiting to report for a job scheduled to begin in the next 30 days;
 - (3) would have been looking for work except temporarily ill or believed no work was available in their line.

Prior to 1957, persons laid off who expected to be called back to work in the next 30 days and persons not in school who were waiting to report to a new job scheduled to begin in the next 30 days were both classified as employed. These persons are now included among the unemployed. On the other hand, persons who were in school during the survey week but were waiting to report to a new job scheduled to begin in the next 30 days were, prior to 1957, included among the employed, whereas under the latest Bureau classification they are excluded from the labor force. The classification “not in the labor force” now includes persons keeping house, in school, permanently unable to work, retired persons, and other minor groups.

The Bureau of Census classification set forth in Table 18 affords an illuminating picture of employment status. Nevertheless, it has been criticized as inadequate in certain respects. For example, seasonal workers who were neither working nor seeking work in the survey week are not included in the labor force. While many of this group may desire employment only on a seasonal basis, there are undoubtedly many others who would prefer year-round employment but do not even bother to look for it because of the lack of employment opportunities in the particular geographical location in which they live.

Likewise, the treatment of persons with physical handicaps is not wholly satisfactory. These persons are treated as unemployable rather than unemployed, and they are excluded from the labor force. Experience during World War II, however, taught employers that there is a definite place in industry for the blind, the maimed, and the crippled. The Bureau of Labor Statistics has estimated that there are about 5 to 7 million handicapped workers who could be placed in industrial occupations. A study conducted by the Bureau, based on comparative performance records of 6,500 unimpaired workers and 4,000 impaired workers (placed in jobs where their impairment did not handicap them), indicated that the impaired workers were as efficient, had the same absenteeism rate, and had only two thirds the number of disabling injuries.⁶ In considering statistics of unemployment, therefore, it is well to bear in mind that concepts of unemployment alter with social progress and that tomorrow we may consider persons to be unemployed who today are deemed unemployable.

THE VOLUME OF UNEMPLOYMENT

Unemployment was the insoluble problem of the 1930's. One in every four persons was unemployed in the depth of the Great Depression, and the number of unemployed never fell below 10 per cent of the labor force until 1941. Table 19 shows the great fluctuations which have occurred in the number of unemployed persons and also the percentage of unemployed relative to the labor force in selected years from 1929 to 1956. Since 1941, the high level of government expenditures on armaments which characterized the period of World War II and the period of uneasy peace thereafter has kept unemployment at a bare minimum. In 1953, as can be seen from Table 19, there were only about 1,602,000 persons unemployed out of a total civilian labor force of 63,815,000 persons, or about 2.5 per cent of the labor force. This is considered by economists to be close to the minimum amount of unemployment possible in peacetime in a dynamic economy such as ours where some workers are in process of changing jobs at any given moment and where a small group of persons constitute a hard core of unemployed who cannot adapt themselves to permanent jobs in our society. Generally speaking, economists consider the American economy to be in "full employment" when unemployment of 2 or 3 million persists.

In 1956, unemployment amounted to 2,551,000 persons of which 510,000 were in the age group 14-19; 1,229,000 were males age 20-64;

⁶ *Monthly Labor Review*, Vol. LXIII (1946), p. 919.

TABLE 19
NONINSTITUTIONAL POPULATION AND THE LABOR FORCE, SELECTED YEARS, 1929-56
(Note: This Table is the same as Table 1, Chapter 1, reproduced here for reader convenience.)

[illegible]

na.—not available.

*Includes part-time workers and those with jobs but not at work for such reasons as vacation, illness, bad weather, temporary layoff, and industrial disputes.

SOURCE: Adapted from Table E-17, *Economic Report of President, January, 1957* (Washington, D.C.: U.S. Government Printing Office, 1957), pp. 140-141.

713,000 were females age 20–64; 99,000 were persons 65 and over.⁷ The unemployment rate was 3.8 per cent. Despite comparative stability in this rate over the year, the turnover among the unemployed was high. On the average, more than one half the persons seeking work in one month had either found employment or withdrawn from the labor force the following month. They were replaced by an approximate equal number who lost jobs or entered the market in search of work.⁸

TYPES OF UNEMPLOYMENT

The economist customarily classifies unemployment in terms of the various types which are most commonly manifested in the economy. The particular categories distinguished by the classification are, of course, arbitrary. To some extent they obscure some of the basic theoretical controversies which prevail as to the causes of unemployment. Thus, for example, *technological unemployment*—the displacement of labor attributable to mechanization and use of improved production methods—is frequently distinguished from *cyclical unemployment*—the unemployment associated with the rise and fall of business activity over the cycle. Such a distinction might be considered unwarranted and misleading by those cycle theorists who hold that technological development is a primary cause of the aberrations in investment which give rise to the business cycle.⁹ On the other hand, from the point of view of the trade-union official, the dichotomy, though arbitrary, may nevertheless prove useful. The trade-union may be able to reduce technological unemployment by an agreement with the employer to introduce new machinery gradually, whereas the same union may be powerless to stabilize employment in the face of a cyclical decline in demand. Similarly for the economist, the government official, and particularly for the student beginning the study of this field, classification of the types of unemployment performs a useful function in introducing a measure of order into a somewhat chaotic subject.

Therefore, in the following discussion we shall adopt the usual classifications of unemployment. These classifications have grown up largely as a means of indicating that the various types of unemployment to some extent represent differing and distinct causes of aberration in the

⁷ *Economic Report of the President, January, 1957* (Washington, D.C.: U.S. Government Printing Office, 1957), p. 142.

⁸ U.S. Bureau of the Census, *Current Population Reports, Series P-50* (March, 1957), p. 8.

⁹ The late Professor Joseph A. Schumpeter was perhaps the best-known exponent of this view. See his *Business Cycles* (2 vols.; New York: McGraw-Hill Book Co., Inc., 1939).

economic system. However it is clear that the various subdivisions of unemployment which we shall suggest are not mutually exclusive. Moreover, the fact that the "types of unemployment" which the economist adopts for conceptual clarification may not have counterparts in reality is sometimes overlooked by research investigators. One investigator, for example, found from a survey that 4 per cent of total unemployment was technological.¹⁰ This result was obtained by asking the displaced worker what the reason was for his loss of job and by classifying his unemployment according to his answer. Such a procedure leads to obvious error; for the forces that influence any given economic event are typically manifold and diverse; and to take the opinion of the average worker with regard to the complex forces which may be responsible for his discharge is to expect from him an analysis which even experienced economists have been unable to produce.

Suppose worker John Doe has been laid off at the mine. He does not understand why he has been laid off, but the foreman may have told him: "Now that things are slack, and we have those new machines, we just don't need as much help." Is John Doe a victim of technological unemployment? This is possible, but it is more than likely that other influences were also at work. In what stage of the business cycle did the layoff occur? If this were 1933, should we call it cyclical and not technological unemployment, or is there any difference? What season of the year is it? Investigation may indicate that layoffs are typical in the off season even in good times. Has the general trend in employment and production been up or down in industry? Coal has been a sick industry for a number of years due to the competition of other fuels. Is John Doe's loss of work simply part of this long-run underlying trend in the industry? And then, of course, it would be pertinent to inquire how high are wage levels, how they compare with surrounding firms and comparable industries. In bituminous coal, wage disbursements represent over 70 per cent of total costs at the mine. Obviously a large wage increase secured by a strong union might so cut into profits as to make employers anxious to save expensive labor in every possible fashion. The difficulties suggested by this brief example afford a useful introduction to the study of various types of unemployment.

CYCLICAL UNEMPLOYMENT

The outstanding source of unemployment in our modern economy is the recurrent fluctuation in business which has been called the business

¹⁰ W. I. King, "The Relative Volume of Technological Unemployment," *Journal of American Statistical Association*, *Proceedings*, Vol. XXVIII (1933), p. 39.

cycle. While the business cycle has characterized American industrial development almost since its inception, mass unemployment of a cyclical nature is a comparatively recent problem. Prior to 1929, the number of unemployed in industry did not exceed 5 million per annum. Yet in 1933 it is estimated that approximately 13 million workers were unemployed. The figure of 13 million understates the tragedy of unemployment, for another 25 million persons were directly or indirectly dependent upon these unemployed.

Various theories have been advanced by economists to explain the recurrent fluctuations in business activity which we call the business cycle. Some economists believe that in a capitalistic system progress characteristically proceeds in fits and starts. They argue that the primary force impelling fluctuations in economic activity is the impact of inventions, wars, and new discoveries. These factors raise the rate of profit which businessmen expect to make on new investment and induce them to risk capital in new ventures. But when the new investment has caught up with the developments of science and technology and exploited to the limit what is economically feasible, all that remains for a while is mere upkeep and replacement.¹¹ New investment contracts as a consequence, output and employment recede, and depression sets in. Other economists, while conceding that the profitability of investment may fluctuate from time to time due to the impact of such outside influences contend that the great fluctuations which actually occur in production and employment are attributable to the instability of our credit system. Were it not for the great expansion of credit which occurs during the upswing of the cycle, the boom would never run to excess and presumably the resulting downward adjustment would be less severe.

Characteristics of Cyclical Unemployment

The causes of the business cycle constitute a separate field of study which is outside the scope of our immediate inquiry in this book. It is pertinent to this discussion, however, to observe certain definite characteristics in the fluctuation of employment which customarily develop in boom and depression. Thus, for example, it is well established that the durable-goods producing industries experience more extreme variations in output and employment than those producing nondurable goods. Employment in durable-goods industries declined from 4,090,000 in 1929 to 2,215,000 in 1933; while in nondurable goods industries, the decline

¹¹ A Hansen, *Full Recovery or Stagnation* (New York: W. W. Norton & Co., Inc., 1938), p. 139.

was from 4,278,900 to 3,575,000.¹² Whereas the boot and shoe industry in March, 1933, was doing about 88 per cent of its normal business (based on the 1926-29 average), cement mills operated at only 35 per cent, and building contractors at about 11 per cent of normal business levels.¹³ Thus, it appears that the longer the product lasts, the shorter is likely to be the employment of the average worker in the industry producing it. The construction industry, as can be seen from the statistics above, is particularly hard hit during depression, the reason being that investment in homes or business plants is the type of expenditure which can be easily postponed when income falls.¹⁴

The burden of cyclical unemployment is not spread evenly. Some industries fare reasonably well, while others are subject to extreme variations in demand. Employment in manufacturing has proved to be one of the most volatile in the nonagricultural group. The relative decline between 1929 and 1932 in employment in manufacturing was equal to that in construction and deeper than any other industry division. At the peak in 1943, manufacturing employed 17 million workers, about two and one half times as many as in 1932.¹⁵

In view of the fact that historically durable-goods manufacturing industries have been most sensitive to changes in the economic climate and in recent years have been the first to feel the effects of recession, it is significant that there appears to be a long-run trend toward greater employment in durable-goods manufacturing than in nondurable-goods manufacturing. For example, in the last 15 years, all manufacturing employment rose 65 per cent. Durable-goods employment was up more than 100 per cent during this same period, while nondurable-goods employment rose only by 30 per cent. Today, 57 per cent of manufacturing employment is concentrated in the durable-goods industries. Electrical machinery, other machinery manufacture, and transportation equipment have shown the greatest gains, while apparel, food, and textiles are soft-goods industries where employment has fallen off most.¹⁶ This trend

¹² C. Gill, *Wasted Manpower* (New York: W. W. Norton & Co., Inc., 1939), p. 37.

¹³ C. Roos, *NRA Economic Planning*, Cowles Commission Monograph No. 2 (Bloomington, Ind.: Principia Press, 1937), p. 113.

¹⁴ Fluctuation of employment in the building industry is further aggravated by the fact that construction has a definite cycle of its own, reflecting factors which are peculiar to that industry. The coincidence of a slump in building with a business depression sends construction unemployment to appalling heights. See C. D. Long, Jr., *Building Cycles and the Theory of Investment* (Princeton: Princeton University Press, 1940).

¹⁵ *Report of the Subcommittee on Unemployment of the Joint Committee on the Economic Report* (81st Cong., 2d Sess.), Joint Comm. Print (Washington, D.C.: U.S. Government Printing Office, 1950), p. 35.

¹⁶ *Business Week*, February 11, 1956, pp 144-46.

would seem to make the economy subject to greater swings in cyclical unemployment since production in the durable-goods industries fluctuates much more severely than in nondurable-goods industries.

The burden of cyclical unemployment is not evenly distributed among different types of workers. On the whole, time lost is greatest among the low-paid unskilled workers, the very ones who can least afford it. Minority groups find that discrimination increases with the length of the lines at the employment agencies. During the depression of 1938, a survey in Philadelphia revealed that one out of every two Negro workers was unemployed, while only one out of every four white workers was experiencing complete unemployment. The incidence of unemployment increases with extremes in age—the older men, in the absence of seniority plans, are usually the first to be laid off; and the young men coming out of school find that the door to employment is closed.

Cyclical unemployment exacts a tragic toll in wasted skills, broken homes, warped lives, and ruined health. In money terms, the loss to the economy is staggering. The idleness of the decade of the 1930's, for example, was responsible for the loss of an estimated \$200 billion of income.¹⁷ The loss in terms of healthy citizens is even more serious. It has been estimated that in the United States in 1932 the health of one fifth of the children of the nation had been impaired as a direct result of the depression.¹⁸ To this must be added juvenile delinquency, loss of skills, and loss of self-respect—ravages of cyclical unemployment which are not easily erased with the return of prosperity.

SECULAR TRENDS IN EMPLOYMENT

Secular trends are long-term trends which may perhaps take 50 years to run their course. They are distinguishable from cyclical movements which on the average do not exceed 10 years in duration.¹⁹ Secular trends in employment within an industry are due to the influence of technological change, population growth, and competition from other industries. Perhaps these trends are also due to some fundamental "law" in the development of an industry. For example, the typical development of an industry might be represented by a logistic curve—that is, production and

¹⁷ S. Harris, *Postwar Economic Problems* (New York: McGraw-Hill Book Co., Inc., 1943), p. 15.

¹⁸ *Encyclopedia of the Social Sciences* (New York: Macmillan Co., 1935), Vol. XV, p. 148.

¹⁹ Business cycles are normally considered to be of two types—the so-called "40-month cycle" and the so-called "Juglar cycle," which lasts about 10 years. The so-called "Kondratieff cycle," which lasts about 50 years, is, for the purpose of this discussion, included in the category of secular trends.

employment rise first at an increasing rate, then at a decreasing rate, finally reach a maximum as demand becomes stabilized, and eventually decline.

Secular trends are at work not only in particular industries but also in the economy as a whole, and perhaps also in the world at large. Thus changes in gold supply, wars, disease, and population shift will all affect employment trends. According to one theory, there are "long waves" in economic development, reflecting such underlying causes and averaging in the neighborhood of 50 years in duration.²⁰ If the low point of a long wave happens to coincide with the low point of a business cycle—as may have been the case in 1933—a very serious and deep depression will result, with a corresponding sharp reduction in the volume of employment.

Theory of Secular Stagnation

The drop in production and employment which characterized the depression of the 1930's was so great and the recovery from depression was so slow that some economists concluded that this depression was symptomatic of a profound change which had affected the American economic system. According to this view, the large-scale unemployment of this period was not the result of a mere temporary depression phase of the business cycle but rather was associated with long-term secular stagnation. It was argued that the expanding employment of earlier years was dependent upon the existence of adequate investment opportunities. These had, in the past, been provided by the needs of a rapidly growing population, the expanding geographical area of this country, and a high rate of technological progress. However, none of these factors could—it was argued—be relied upon in the future. The rate of population increase had declined, and perhaps by the end of the century population in this country would cease to increase. There were no new frontiers to exploit. New inventions might supply the necessary investment opportunities, but the rate of technological progress also had seemed to decline. Railroad development had supplied the basis for high employment in the latter part of the nineteenth century; expansion of the automobile and allied industries supported the prosperity of the 1920's. But in the following years, no invention appeared of comparable importance to afford new investment and employment opportunities.

The doubts raised by these economists with respect to future employment prospects found support in the theoretical writings of John Maynard Keynes who, in 1936, published his influential treatise entitled

²⁰ N. Kondratieff, "The Long Waves in Economic Life," *Review of Economic Statistics*, Vol. XVII (1935), pp. 105–15.

A General Theory of Employment, Interest and Money. Prior to publication of this work, many economic theorists viewed unemployment as a result of wage levels which were too high. The labor market was considered to be governed by the same rules of supply and demand which regulated product markets. If labor remained unemployed, it was because its price was too high. If money wage rates were lowered, it was thought, more labor would be employed, and at some rate "the market would be cleared" and unemployment would disappear.

Keynes, however, took the position that the lowering of money wages would not necessarily reduce unemployment. He said that the volume of employment depended upon the level of spending by consumers and business. In other words, the money spent on consumption and investment determined the volume of employment. If consumers received income but did not spend it all on consumption—that is, if they tried to save part of their income—a deflationary influence was exerted on the economy, and employment might decline as a result unless there were offsetting expenditures by business in the form of new investment. The difficulty is, however, that decisions as to savings and investment are made by two different groups of people, and there is no necessity that they be co-ordinated in a capitalistic system. The amount which the economy invests is governed not by the amount of savings made available by consumers but by the expectation of profit by businessmen. Keynes thus made clear that in our society full employment was not something that could be taken for granted. Since savings were continuously made by the community, there was a continual need for new investment opportunities so that investment could be made to maintain the income stream. If investment opportunities declined while savings continued, the economy would be plunged into a downward deflationary spiral from which recovery would be extremely difficult. Indeed, unless there was a significant acceleration in the rate of technological discovery so as to make private investment attractive, it appeared to Keynes and his followers that the federal government would have to take up the slack and provide the needed investment to maintain purchasing power.

Whether there is a tendency toward "maturity" (i.e., a slackening of economic growth) and long-run underemployment in our economy is a debatable question. Every age has had its prophets who have made similar dire predictions that progress had come to an end; yet every century has witnessed new inventions, new comforts, and higher levels of employment and real income. Peacetime utilization of atomic power certainly can provide investment opportunities far exceeding those provided by the railroad or automobile. Nevertheless, it must be conceded that the

unemployment problems of the 1930's were never really solved by private industry, and it was only rearmament, war, and more rearmament which kept unemployment at low levels. If the federal government were sharply to curtail armament expenditures and balance its budget, there are many economists who believe that the problem of underemployment and secular stagnation would again be with us.

SEASONAL UNEMPLOYMENT

Seasonal unemployment is due to variations in business during the year caused by climatic or other seasonal changes in supply and by changing seasonal demands reflecting custom, habit, and style factors. On the supply side, seasonal variations result in a fluctuating flow of materials or seasonal alteration in production techniques. Agriculture, for example, reflects the direct influence of the weather and therefore is peculiarly susceptible to seasonal variation in output and employment. Moreover, the various industries which process agricultural products are likewise subject to seasonal fluctuation in employment due to the availability or nonavailability of the raw material upon which their operation depends. On the demand side, seasonal variations are particularly marked in those industries which produce unstandardized consumption goods with relatively elastic demands. The Easter bonnet and the Christmas card are two illustrations of commodities in the demand for which seasonality plays a dominant role. To a lesser extent, seasonal variations attributable to either supply or demand conditions characterize the manufacture of agricultural equipment and the fertilizer, construction, and mining industries.

The seasonal variation in employment in particular industries takes on such a definite pattern that it can be forecast with considerable exactitude. Statistical techniques have been developed to eliminate its influence from data of employment, production, and sales so as to permit analysis of the statistics free from distortion produced by seasonal variation. Within any large state or area—if industry is diversified—opposite seasonal variations tend to counteract one another so that net seasonal fluctuations in total employment may be relatively small in consequence.²¹ For the country as a whole such a balancing will always occur, but because of the distance involved and the insufficient mobility of labor, a substantial amount of seasonal unemployment may remain. One investigator estimates that the “excess” labor supply attributable to seasonal factors

²¹ See, for example, V. Boothe and S. Arnold, *Seasonality of Employment in Ohio* (Columbus: Ohio State University Bureau of Business Research, 1944), p. 7.

is roughly 3 per cent for manufacturing industry, 15 per cent for construction, and 5 per cent for total trade.²²

Seasonality in Agriculture

In agriculture, the problem of seasonal unemployment is even more acute. The seasonality of the pattern of demand for labor has given rise to a migratory labor force, moving from one area to another, following the cycle of the crops. These people, generally in the very low-income brackets, unable to form fixed associations or community ties, present a serious political and sociological problem with which no relief agency has been able to cope.

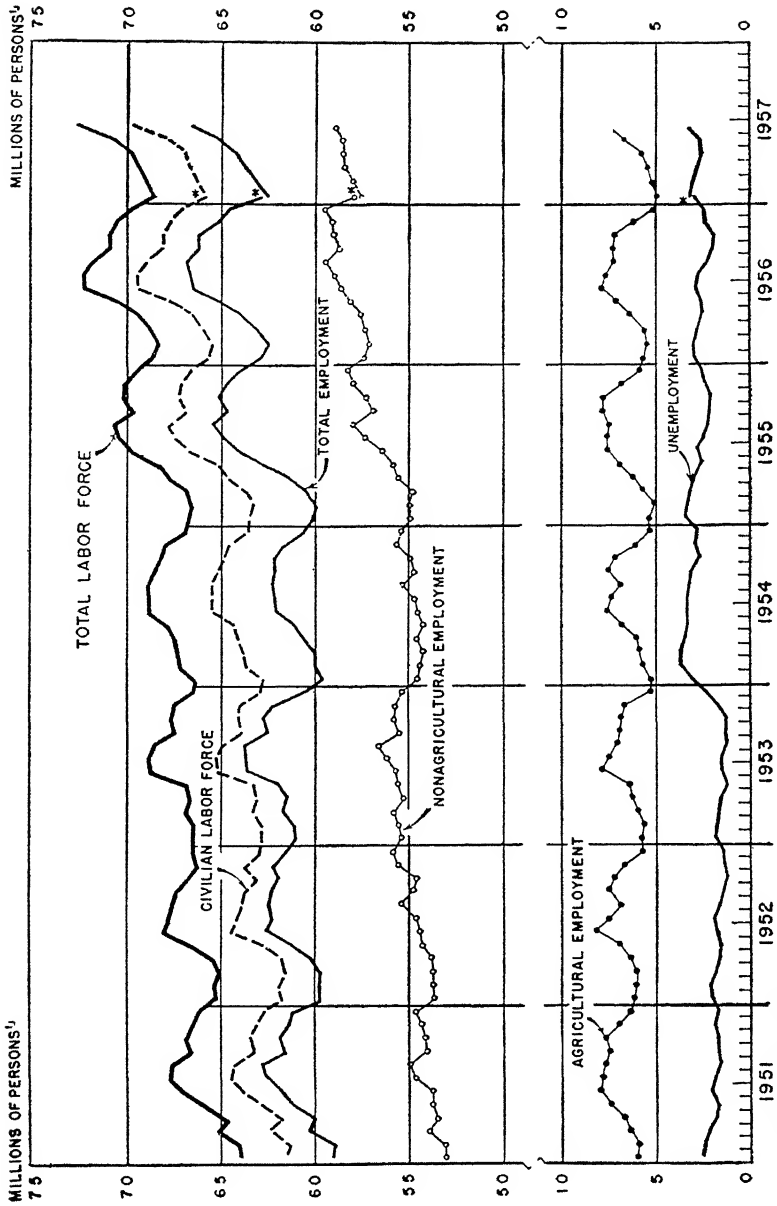
Figure 22 shows trends in the labor force from 1951 to 1957. This chart shows clearly the seasonal upswing and downswing in employment which occurs with regularity year after year. As can be seen from the striking similarity in fluctuation in the curves representing total labor force, civilian labor force, total employment, and agricultural employment, swings in employment are for the most part due to the seasonal character of agriculture in this country.

TECHNOLOGICAL UNEMPLOYMENT

Technological unemployment is that displacement of labor by machinery and improved methods of production which is attributable to advances of the arts and sciences or to improvements in the technique of management. This definition does not make technological unemployment synonymous with all kinds of displacement of labor by machinery. For example, suppose that a minimum wage is imposed on an industry, doubling the wage rates which it has to pay. Employers would now find it profitable to introduce machines already known and in use in other industries but which hitherto had not been profitable to utilize in this particular industry operating at a low wage rate. Some labor will be displaced by the introduction of the machines, but it would be misleading to attribute this to technological change. The unemployment in this case is attributable to the rise in the price of labor and would have occurred even in a stationary state where technological progress was absent. Thus for the purpose of precise analytical reasoning, it is important to distinguish "substitution" unemployment from "technological" unemployment. In actual practice, however, it is usually impossible to separate the two, so

²² S. Kuznets, *Seasonal Variations in Industry and Trade* (New York: National Bureau of Economic Research, Inc., 1933), p. 353.

FIGURE 22
TRENDS IN THE LABOR FORCE, 1951-57



¹ 14 YEARS OF AGE AND OVER
² 1957 PRELIMINARY DATA
³ NEW DEFINITIONS.
 SOURCE: DEPARTMENT OF COMMERCE.

that any figures for technological unemployment are likely to contain a substantial amount of substitution unemployment as well.

The effects of technological unemployment are far flung and diffuse; they are to be traced far beyond the displacement of particular workers by a new machine. When the continuous automatic strip mills were introduced in the steel industry, whole communities were rendered dead and inactive overnight. Tradespeople, professional workers, school teachers—all alike were affected by the repercussions of introduction of this invention.

Possibility of Permanent Technological Unemployment

Can laborsaving machinery produce permanent technological unemployment? The answer to this question will depend upon whether we are considering a particular firm or industry, on the one hand, or the economy as a whole, on the other hand. In a particular firm or industry, the effect of a laborsaving machine upon employment will depend upon the rate of introduction of the machine, the laborsaving capacity of the machine, the extent to which the skills of the old workers are still useful under the new method of production, and the elasticity of demand for the product. The latter phrase refers to the manner in which sales of the product are related to changes in price. If the price of a product is reduced, say, 10 per cent as a result of technological improvement and sales increase by more than 10 per cent, we say that the demand is elastic (or has an elasticity of more than unity); while if sales increase by less than 10 per cent, we say that demand is inelastic (or the elasticity of demand is less than unity).

If the demand for the product is highly elastic, it is possible that sales at the lower level of prices made possible by the laborsaving machinery will be sufficiently great to reabsorb all the labor displaced by the new machinery. The extent to which this is accomplished will depend upon how many workers were displaced by the machinery and by the rapidity of introduction of the machinery. Even if a new machine is highly laborsaving, it is possible that a strong union may be able to retard the rate of its introduction so that the rate of displacement is equal to the normal attrition rate in the industry—i.e., the number of men displaced will be equal to the number of workers who would normally leave the industry because of old age, death, sickness, etc. Finally the incidence of the new machine will depend in part upon its effect on the usefulness of skills of the old workers. For example, when the linotype was first introduced, employers tried to use stenographers to run the linotype machines, but they soon discovered that the training and skill of the printer made him a more efficient operator of the machine. Consequently, even

nonunion shops found it advantageous to develop machine operators from the ranks of hand compositors. By contrast, introduction of the Owens automatic machine and the feed and flow device in the glass bottle industry enabled employers to replace highly skilled blowers with unskilled workmen.

Whether laborsaving machinery can produce permanent technological unemployment in the economy as a whole has long been the subject of controversy in the literature. According to economic theory, the effect of a laborsaving invention is to raise the marginal product of capital relative to labor and thus reduce the relative share of labor in the national income. Some writers have seized on this possibility to argue that a decline in the relative share of labor in the national income will mean a shift of income from those classes which save little to those which save more, with the result that consumer purchasing power will be diminished, a deflationary influence will be exerted on the consumption goods industries, and the equilibrium level of employment will therefore be reduced.²³ This conclusion, however, rests on an erroneous major premise and is not borne out by historical evidence. While most inventions are laborsaving, there has been no long-run trend toward a reduced share for labor in the national income. The effect of a laborsaving invention in reducing the relative share of labor in the national income is only temporary. Since the invention also increases the marginal productivity of capital, and therefore the expectation of profits, investment will increase and thereby raise the marginal productivity of labor and the level of employment.

Effects of Laborsaving Improvements

The reaction of employment in the economy as a whole to the introduction of laborsaving improvements in a particular industry or industries can be illustrated by a simplified model. Assume that an improved machine reduces the cost of automobile production by 10 per cent. Assume further that at the former level of output, 10 per cent of the work force could be displaced by the new machine.²⁴ We may then examine the behavior of employment in four possible situations.

²³ J. Robinson, *Essays in the Theory of Employment* (New York: Macmillan Co., 1937), p. 135.

²⁴ In the ordinary case the percentage displacement of labor will differ from the percentage saving in cost. If an invention is highly laborsaving and if labor costs are only a small percentage of total costs, the percentage displacement of labor will usually exceed the percentage reduction in total costs. The assumption made in the text that percentages correspond is adopted merely to achieve greater symmetry in the exposition. Such correspondence would be possible where the invention, though labor saving, also reduces material (and other) costs, so that the percentage reduction in total costs roughly parallels the percentage saving in labor.

1. Prices of automobiles are reduced 10 per cent, and the demand curve has an elasticity of unity.

In this circumstance, the expenditure upon automobiles by the public will remain constant, but the number of automobiles manufactured will increase by 10 per cent. Employment will remain approximately unchanged, the displacement effect being offset by the increase in production. Manufacturers of automobiles will cover their costs, even though they are now selling a large volume at the same total price, because their costs have been lowered by the technical advance.

2. Prices of automobiles are reduced 10 per cent, and the demand curve has an elasticity greater than unity.

In this case, expenditures upon automobiles will increase, which means that output will increase more than proportionately to the reduction in price. Hence new employment opportunities will open up in the automobile industry. Since consumers are spending more of their total incomes on automobiles, they will have less to spend on other products. However, the increased production of automobiles will induce manufacturers to increase orders for many types of raw materials and accessory products. Therefore the reduction in employment in other areas probably will be less than the increase in employment in the automobile industry, so that total employment will increase. Since some of the expansion in the automobile industry will be accomplished through increased borrowing by the automobile companies, additional funds will thus be put into circulation, aggregate demand will rise along with real output, and consumers may find that they still are able to buy their accustomed volume of other products, despite their increased expenditure upon automobiles.

3. Prices of automobiles are reduced 10 per cent, and the demand curve has an elasticity less than unity.

This circumstance is the one which is most difficult for labor. Since consumers will now spend a smaller total amount on automobiles, there will be some displacement of labor in this industry. Assuming no compensatory governmental payments to the displaced workers, their income will be cut off so that a deflationary effect will be produced on total demand. On the other hand, by reason of the decline in auto prices, consumers will have disposable income with which they can purchase more of other products. Output and employment will therefore tend to increase in other industries. Thus, it is conceivable that all displaced labor from the automobile industry will be absorbed in other parts of the economy. This possibility assumes: (*a*) that consumers generally increase their purchases of other commodities by the full amount of their reduced expenditures on automobiles; (*b*) that labor displaced in the auto industry is able and willing to seek employment in other areas.

Each of these assumptions is subject to obvious objections. Consumers may prefer to hoard in a sock the money saved by reason of the automobile price reductions. Even if they put the funds in a savings bank to be invested, there will be some lag during which a deflationary influence will be exercised upon the economy.

Equally suspect is assumption (*b*) that labor is mobile. Adam Smith once said that man is, of all sorts of luggage, the most difficult to transport. Workers are understandably reluctant to leave their homes, communities, and circle of friends to seek new jobs elsewhere when machines deprive them of their means of livelihood. Thus to a certain extent, some technological unemployment is voluntary—in the sense that it might be eliminated if workers were willing to move to other areas. One may well ask, however, why workers should bear this cost of change when the technological improvement benefits the whole community. Moreover, in many cases, the effect of the technological innovation is to render it difficult for the displaced worker to find work elsewhere. This would be the case where invention eliminates the usefulness of a highly specialized skill, with the result that a technician, formerly highly paid, can be reabsorbed in industry only as a common laborer. Mobility of labor requires a willingness not only to move to other areas but also to accept work at a lower wage rate.

4. Prices of automobiles are not reduced at all, and profits rise 10 per cent.

In this case, again, the first effect is that workers displaced in the automobile industry are deprived of their incomes. What they cannot spend may be spent by the entrepreneurs whose profits are increased. At best, employment in other industries will remain unchanged. (Note that since in this case there is no reduction in consumer expenditure on automobiles, there is no tendency to increased output and employment in other industries as in example 3.) If there is hoarding by entrepreneurs out of profits, unemployment attributable to this source will be added to the technological unemployment in the automobile industry. The additional unemployment so produced is attributable to the holding of idle balances and should be distinguished from technological unemployment *per se*. Entrepreneurs will not ordinarily prefer to hold idle balances rather than invest them at a profit unless something has happened to diminish profit expectations. The normal result of technological progress is to raise, not to lower, entrepreneurial expectations of profit. If the augmented margin of profit produced by the laborsaving machine induces additional investment, the new employment associated therewith will tend to offset the technological unemployment produced by the introduction of the machinery.

In actual practice, prices will rarely fall by the full amount of the reduction in cost effected by a technological innovation; nor are prices maintained at their former level without any downward adjustment. However, the fact that real wages in the United States doubled from 1840 to 1910²⁵—a period characterized by trusts and monopolies, on the one hand, and a relatively unorganized labor market, on the other—indicates that the recipients of profits have not been the only ones to benefit from technological change. Nevertheless it is desirable that, at least *temporarily*, profits should be increased by technological change. If employers were compelled to lower prices or to increase wages by the full amount of the savings in cost produced by a technological change, there would be no inducement afforded to make further investments in improved machinery.

Technological Progress and Employment Opportunities

The full effect of laborsaving machinery upon employment cannot be understood unless such improvements are viewed as part of a dynamic technological environment which is essential to new investment. Our brief illustration of the effects of introduction of laborsaving machinery in the automobile industry took no account of the fact that invention and production of such a machine created new jobs in the machinery industry. Production of laborsaving machinery is itself a major form of new investment, and it is new investment which is the driving force of our economy, creating new employment opportunities, and raising the standard of living. In our discussion of secular unemployment, we noted that some economists believe that a decline in the rate of technological progress may produce secular stagnation and continuing unemployment. A high rate of technological progress is therefore essential if we are to maintain a high level of business activity. The community may have to liberalize unemployment benefits and take other measures to ease the burden of technological unemployment. Any plan, however, which seeks to reduce technological unemployment by reducing the rate of technological change itself is likely to be self-defeating. Such a plan, if successful, would tend to reduce the volume of new investment and the job opportunities associated with it.

Automation and Unemployment

Much has been written in the last few years about automation. Will the effects of automation on employment be any different than that

²⁵ A. Hansen, "Factors Affecting the Trend in Real Wages," *American Economic Review*, Vol. XV (1925), p. 32.

resulting from the introduction of laborsaving machinery? The answer would seem to be: no. Automation is simply today's application of the principle of substitution of capital for labor through improved technology.

Automation is a term which encompasses two types of technological developments. The one may be called "advanced mechanization." This is exemplified by the type of operation found in the automobile industry where a high degree of automatic operation has been achieved by the integration of machines with each other and the automatic handling and transfer of parts. The other aspect is known as "feedback control." This process is exemplified by the oil refineries and involves a closed system of self-correcting controls so that an entire process can be operated—frequently around the clock—with little or no manual labor.

Both types of automation involve large capital expenditures and both, of course, involve displacement of labor. Automation makes possible reduced costs and the performance of certain operations—as in the handling of fissionable materials—which could not be done through conventional machine operation. Like other forms of technological development, automation has produced a tremendous demand for capital goods, in this case in the form of new machines, automatic controls, and electronic devices, and therefore has opened up many new employment opportunities in the industries producing such items. In those industries where automation has been applied, there has been displacement of labor. Automatic factories, however, are not workerless. For example, the atomic plants at Oak Ridge are run by 20–30 girls but require the services of hundreds of maintenance men and engineers.²⁶

Automation is revolutionary in potential, but it is evolutionary when viewed against the long and continuous stream of progress made in substituting machinery for labor in American industry.

WAGE DISTORTION UNEMPLOYMENT

Earlier in this chapter it was observed that some economists believe that "too high" a wage level can produce general unemployment in the economy as a whole. If this view is accepted, most types of unemployment reduce to "wage distortion unemployment," since whether the unemployment is the result in the first instance of a decline in business activity in the course of the business cycle or of the widespread introduction of laborsaving improvements, the unemployed could find jobs only

²⁶ John Diebold, "What is Automation?" *Management Record*, September, 1955, p. 357.

if they would accept a "competitive" wage—that is, a wage which would result from unrestricted operation of the forces of supply and demand in the labor market. Unions, however, it is claimed, maintain artificially high wage rates despite the fact that a large volume of unemployment exists, and thus the unemployment is the result of the distortion of wages produced by union policy.

The shortcomings of this theory have already been referred to in earlier chapters. It rests upon a notion of the labor market which is highly unrealistic. Moreover, it yields the entirely implausible conclusion that the 16 million persons who were unemployed in 1933 could have found gainful employment if only they would have been willing to work for a low enough money wage. The problem of whether general increases in wage rates may produce unemployment and of the efficacy of wage reductions in reducing unemployment will be more fully explored in the following two chapters.

Whether or not wage levels which are "too high" can produce unemployment in the economy as a whole, there are certainly situations in which an excessive wage rate may produce unemployment in a particular industry. For example, a strong union may force up wage rates in a particular industry to so high a level that sales of the product in union plants decline. Sales may fall off because of consumer resistance to higher prices, competition from nonunion plants, or competition from other industries offering substitutes for the particular product. Although unemployment results in the union plants, workers attracted by the high hourly rate may be unwilling to leave the industry. As a consequence, the industry may attach to itself a large body of workers who are able to work only a part of the year. Examples of this type of "wage distortion unemployment" were found in the needle trades before World War II.

FRICTIONAL UNEMPLOYMENT

Frictional unemployment is attributable to time lost in changing jobs, rather than to a lack of job opportunities. Frictional unemployment, defined broadly enough, could encompass almost all types of unemployment, since the cyclical unemployed, the seasonal worker, and the victim of declining demand in a particular industry must all take time to find new jobs. Frictional unemployment, however, can be distinguished as that type which would not be significantly reduced by a general increase in demand. Even during the war period, when unemployment of other types was practically nonexistent, frictional unemployment persisted; for

the shifting of labor from areas of relative surplus to areas of relative scarcity could not be accomplished without a lapse of time.

The concept of frictional unemployment also involves the notion of unemployment of relatively short duration. Thus a constantly changing pool of workers aggregating, say, 2 million, most of whom find new jobs in 3 or 4 months, would be considered normal frictional unemployment with a labor force of 63 million. But if examination indicated that there was a stagnant pool of 1 million men who remained unemployed for long periods of time, it would be evident that here was a problem not of transition from one job to another but of serious dislocation, attributable perhaps to major technological innovation rendering useless the skills of a particular trade, or the depressed condition of a particular industry or geographical area. It is important to recognize therefore that it is not the amount but the nature of the unemployment which characterizes it as frictional.

Duration of unemployment, which is one index of demarcation between frictional and other types of unemployment, varies in striking fashion over the cycle. Thus, in March, 1940, when unemployment was about 8 million, or in the neighborhood of 14 per cent of the labor force, 17 per cent of the unemployed for whom duration of unemployment was reported had been out of work for 2 years or more and 32 per cent for a year or more.²⁷ By contrast, in September, 1953, when unemployment was at a bare minimum, only 4.5 per cent of unemployed workers had been out of work for over 26 weeks.²⁸ The average duration of unemployment climbed from 8.1 weeks in 1953 to 13 weeks in 1955.²⁹

Frictional unemployment is a reflection of freedom of movement in the labor market coupled with some degree of immobility. John Doe quits his job to go out to work in Detroit, but it will be several weeks at the earliest before he can move the long distance involved and obtain a position in his new location. Such friction exists even with regard to changes of jobs within a given city or state. Public employment exchanges tend to reduce time lost by giving better publicity to job openings. Unions may also perform the same function. In the building industry, for example, where jobs are intermittent, the existence of a strong union ready to supply skilled workers wherever and whenever needed has tended to

²⁷ Woytinsky, *op. cit.*, p. 415.

²⁸ U.S. Bureau of Census, *Current Population Reports*, Series P-47, No. 135 (October 9, 1953), p. 10.

²⁹ *Economic Report of the President, January, 1957* (Washington, D.C.: U.S. Government Office, 1947), p. 144.

reduce the amount of time which would otherwise be lost in shifting from one job to another. The union serves as a central clearinghouse for jobs and probably operates more efficiently in this respect than if workers and employers had to rely on employment exchanges.

The volume of frictional unemployment in a large country such as the United States is substantial. It has been estimated that if every employed worker changed his job once a year and averaged only 1 week in the process of transfer, annual unemployment from this source would average about 2 per cent of the labor force, or about 1,200,000 men.³⁰ It is difficult to estimate how low the volume of frictional unemployment might be brought under the most favorable conditions likely to be encountered in the actual labor market. Experience during periods when employment opportunities were good and labor shortages presented no serious problems indicates that frictional unemployment in such time does not exceed 3-4 per cent of the labor force.³¹ The Bureau of Labor Statistics has estimated that for years prior to 1947 the volume of frictional unemployment averaged about 2-2½ million persons annually.³² Unemployment smaller than this amount was regarded as "overemployment." In view of the fact that unemployment in 1953 had fallen to about 1,602,000 persons despite some expansion in the size of the labor force since 1947, it can readily be seen that the amount of unemployment in 1953 was abnormally low.

The willingness of workers to quite their jobs varies, as might be expected, with business conditions. During World War II, monthly accession and separation rates of more than 10 per cent were found in munitions' production, shipbuilding, and aircraft. For all manufacturing industries as a group, 4-5 per cent a month appears to be the usual turnover rate in good times, while 3-4 per cent is the usual rate in depression.³³

A FULL EMPLOYMENT ECONOMY

The high level of employment which prevailed during and after World War II tended to obscure the fact that this country never adequately solved the unemployment problem which had plagued it in the 1930's. In the 9 years preceding the outbreak of World War II, an average of 17 per cent of the total labor force was unemployed.³⁴ As late as 1939,

³⁰ *Monthly Labor Review*, Vol. LXIV (1947), p. 4.

³¹ U.S. Bureau of Labor Statistics, *Nature and Extent of Frictional Unemployment*, Bureau of Labor Statistics Serial No. R. 1872 (January, 1947), p. 1.

³² *Monthly Labor Review*, Vol. LXIV (1947), p. 1.

³³ Woytinsky, *op. cit.*, pp. 383-84.

³⁴ Statistics derived from *The Economic Almanac for 1946-1947* (New York: National Industrial Conference Board, Inc., 1946), p. 268.

close to 9 million workers were unable to find jobs in industry.³⁵ Had it not been for large government expenditures for armaments and for rehabilitation of Europe, and for carrying on the Korean war, it is possible that substantial unemployment would have reappeared by 1953.

The large-scale unemployment of the 1930's cannot be permitted to occur again. The stability of the Western World—and therefore the peace of the entire world—depends upon America remaining economically strong. If American factories were to close their doors and fail to provide gainful employment for the great bulk of wage earners, communism would have won a great victory. Communism feeds on the despair, poverty, and distress which comes with large-scale unemployment. The stability of our institutions and the future of our democracy itself, therefore, depends upon the maintenance of high-level employment.

Employment Act of 1946

Recognizing the crucial importance of maintaining employment at a high level, Congress enacted the Employment Act of 1946. This statute provides:

It is the continuing policy and responsibility of the federal government to use all practicable means consistent with its needs and obligations and other essential considerations of national policy, with the assistance and co-operation of industry, agriculture, labor and state and local governments, to coordinate and utilize all its plans, functions, and resources, for the purpose of creating and maintaining, in a manner calculated to foster and promote free competitive enterprise and the general welfare, conditions under which there will be afforded useful employment opportunities including self-employment, for those able, willing and seeking to work and to promote maximum employment, production and purchasing power.

Under this Act, the President is charged with the responsibility of formulating a program to achieve the objectives stated in the statute. To assist the President in carrying out this responsibility, a Council (now called a "Board") of Economic Advisors was created in the Executive Office of the President. The Council prepares for the President annually, for submission by him to Congress, an Economic Report which includes relevant data on current levels of employment, purchasing power and production, and recommendations for such legislative action as may best effectuate the purposes of the Act.

³⁵ *Ibid.*, p. 268.

APPROACHES TO FULL EMPLOYMENT

The objective of full employment—if by full employment we mean employment for everyone able, willing, and seeking to work—may be impossible to attain in a free economy without continuing inflation. This problem will be more fully explored in the next chapter. The difficulty lies in the fact that as unemployment approaches the bare minimum, inflationary forces become active which are practically impossible to restrain without resort to price and wage controls. It may be that a more practical objective of public policy would be the maintenance of high-level, rather than full, employment. Such a policy would be deemed successful even if unemployment from time to time aggregated 3 or 4 million.

In this connection it is significant to note that the Employment Act of 1946 is not a "Full Employment Act." The declaration of policy in the Act does not specify "full" or even "maximum" employment as the single goal of national policy. During the first 10 years of administration of the Act, the Board has not adopted any fixed figure as evidence of the desired level of employment. In February, 1955, Dr. Arthur F. Burns, who was then acting as Chairman of the Board of Economic Advisors, replied to a query from the Joint Economic Committee in the following words:

Although 4 per cent of the labor force is nowadays widely regarded as an approximate measure of the amount of frictional and seasonal unemployment, the Council has not favored this or any other rigid figure to serve as a trigger to governmental action or as a measure of good performance.³⁶

Economist Edwin G. Nourse suggests that more useful than any single norm to be sought is a concept of "peril points" to be avoided, such as 2 per cent unemployment as a warning of inflationary overemployment, overextension of credit, or overinvestment, and 4 or 5 per cent unemployment as alerting prompt investigation of causes—whether the sort of disturbance that seems likely to "blow itself out" in due course or, contrariwise, to have a snowballing effect or to reveal a geographical concentration that points to the need of specific local relief measures or such dispersion as suggests the resort to general-acting national policies.³⁷

³⁶ *Hearings before the Joint Committee on the Economic Report*, 1955, p. 45.

³⁷ Edwin G. Nourse, "Ideal and Working Concepts of Full Employment," *American Economic Review*, Papers and Proceedings of 69th Annual Meeting (May, 1957), p. 102.

Governmental Policies

How can the government implement a policy of maintaining high-level employment? At the first signs of a serious downturn in business, the government should take immediate and effective action designed to maintain investment and purchasing power and to prevent a deflationary spiral from developing. Dr. Arthur F. Burns, formerly Chairman of the Board of Economic Advisors, believes that the storm signals of an impending downturn can be read in certain key indexes such as number of shares traded on the stock market, stock prices, new securities offerings, liabilities of business failures, value of construction contracts awarded, bank clearings in New York City, turnover of demand deposits in New York City, and similar indexes which are sensitive to changes in financial and business activity. When these and similar indexes turn down, Burns recommends that the government take action to maintain employment. He believes that such downturn is uniquely shaped by the boom that precedes it and that government remedial policies therefore should be flexible. However, he has stated that he would look to governmental stimulation of construction as a major means of checking a prolonged downturn.³⁸ The construction industry has in past depressions been a focal point of government efforts to stimulate business. Thus, in the depression of the 1930's, the PWA was established to provide work relief on self-liquidating public construction projects. There is need today for a well-formulated government program of public works which can be put into operation promptly when a downturn in business becomes evident. Such a program, if co-ordinated with other policies designed to stimulate private investment, can do much to maintain production and employment.

Governmental policies designed to promote high-level employment must also operate on the two variables which determine the volume of private investment—namely, the interest rate and the anticipated rate of profit. Reduction of the interest rate in times of depression has by itself not proved an effective means of stimulating investment, because at such times the anticipated rate of profit frequently has fallen to such a low level that businessmen prefer to wait and see rather than make commitments for the future, regardless of how low the interest rate may be. When business turns downward, therefore, the government must act to reduce interest rates but must at the same time, through tax reductions, liberalization of depreciation regulations with respect to new plant and equipment, and similar measures, attempt to increase the profitability of new investment.

³⁸ *Business Week*, July 18, 1953, pp. 46-47.

The foregoing measures have most relevance with respect to cyclical and possibly secular employment. So far as technological, seasonal, and frictional unemployment are concerned, the government can help in minimizing such unemployment by providing facilities so that workers who are displaced in one industry, area, or firm can find work elsewhere with a minimum of delay. Improvement in the services presently provided by the United States Employment Offices would assist in attaining this objective.

Business Policies

There is not much that the individual employer can do about controlling cyclical or secular unemployment. As we shall see in Chapter 20, guaranteed employment plans may regularize employment in some firms, but it is doubtful whether they can be applied to industry at large unless other steps are first taken to stabilize production and employment over the economy as a whole. However, business firms can reduce the volume of seasonal unemployment. In some cases, this can be accomplished by advertising aimed at influencing consumer demand. For example, for many years Florida hotels were open for only a few months during the winter season, but advertising and summer price reductions have resulted in Florida becoming an all-year-round resort so that employment in the hotel, amusement, and allied industries has, at least to some extent, been stabilized.

Individual firms may also stabilize their own production and employment by diversifying the line of products which they sell so as to use their labor fully in otherwise slack periods. Thus, bathing suit manufacturers make sweaters in their off season; ice companies customarily sell coal to use their equipment and personnel more efficiently. Companies can also do much to minimize technological displacement of labor by timing introduction of laborsaving machines when the displaced employees can be transferred to other operations or other plants of the same company.

Union Policies

If unions are successful in obtaining dismissal wage payments, employment guarantees, liberalized unemployment compensation payments, and similar benefits designed to reduce the incidence of unemployment on their membership, it is possible that these measures will assist in stabilizing employment in the economy as a whole. There is, however, a substantial risk that the total effect of such policies will be to reduce the profitability of investment and so result in a lower level of investment and

employment. Unions could increase employment opportunities if they would co-operate with management in reducing costs and improving the efficiency of industry. However, to date mutual distrust as to the manner of distribution of the gains of such co-operative effort has proved a major stumbling block to such action. The effect of union wage policies upon employment will be the subject of our inquiry in the following three chapters.

QUESTIONS FOR DISCUSSION

1. Is there any real distinction between cyclical unemployment and technological unemployment? Of what value is it to classify various forms of unemployment?
2. Discuss the various possible effects upon employment of the introduction of a laborsaving invention from the point of view of the firm in which it is introduced and the economy at large.
3. What is "frictional unemployment"? What are its causes? Can you suggest a program which might reduce its amount?

SUGGESTIONS FOR FURTHER READING

"The Employment Act in the Economic Thinking of our Times—A Symposium," *American Economic Review*, Papers and Proceedings of 69th Annual Meeting of American Economic Association, 1956, Vol. XLVII (May, 1957), pp. 96–144.

A series of articles appraising the Employment Act of 1946 and our experience under it.

UNITED STATES DEPARTMENT OF COMMERCE, BUREAU OF CENSUS. "Annual Report on the Labor Force, 1956," *Current Population Reports*, Series P-50, No. 72.

A detailed statistical analysis of unemployment by regions, age, industry, occupation, etc.

GARBARINO, JOSEPH W. *The Unemployed Worker during a Period of "Full" Employment*. Reprint No. 50, Institute of Industrial Relations, University of California (Berkeley), 1954.

A study of the type of worker who is unemployed when unemployment is at a minimum.

WOYTINSKY, W. S., and ASSOCIATES. *Employment and Wages in the United States*, chap. xxxii, pp. 393–402. New York: Twentieth Century Fund, Inc., 1953.

A discussion of the composition of unemployment and problems in its measurement.

Chapter 13

WAGE CHANGES AND EMPLOYMENT

Union officials, in order to maintain their positions and retain the allegiance and interest of their membership, must constantly seek to obtain new benefits for their members. In view of the strength of organized labor in this country, it seems likely that over the long run the general trend of wage rates in future years will be upward, interrupted from time to time by the recurrent recessions which have in the past marked our economic development. What impact will such continuing wage pressure have upon employment?

The effect of wage changes upon employment constitutes one of the most controversial subjects in the field of labor economics. Most union leaders deny that there is any predictable relation between wage increases and employment in the *individual* firm in our dynamic economy. Orthodox economists generally take a contrary view. But when we come to the field of *general* wage adjustments occurring uniformly throughout the economy, we find that many economists argue that such wage adjustments need have no effect upon employment. What is the reason for this divergence in opinion? Under what circumstances will wage increases curtail employment? In this chapter, we shall inquire into the consequences of increases in wage rates upon employment, first from the point of view of the individual firm and secondly from the point of view of the economy at large. Finally we shall examine some of the problems created by continuing union wage pressure.

WAGE CHANGES IN THE INDIVIDUAL FIRM

Short-Run Effect of Wage Increases

Assume that an increase occurs in the rate of wages which an employer is required to pay to his labor force. This might be the result of a new union contract or of a minimum wage law or simply of increasing

scarcity of labor in the labor market. Assume further that the demand for the product sold by the company remains unchanged, that there are no new inventions reducing costs of production in the firm, and that output in the company at the time the wage increase occurred was neither expanding nor contracting but was relatively stable. These various assumptions are generally taken care of by phrasing our inquiry in terms of the effect of a wage increase in the individual firm, "other things being equal."

Orthodox economists assume that the behavior of the employer under such circumstances will conform to the principles of marginal-productivity determination, which we examined in Chapter 10. According to the marginal-productivity theory, the employer endeavors to hire labor up to the point at which the marginal cost of labor is approximately equal to its marginal contribution to the revenue of the firm.

As we have seen in Chapter 10, if the supply of labor is elastic, the wage and marginal cost of labor are the same, and the employer will hire labor up to the point of approximate equality between marginal revenue product and wage. It will simplify our analysis if we ignore the complications produced by a rising supply curve for labor and, in the following discussion of employment policy in the individual firm, assume that the employer is faced by an elastic supply curve for labor so that marginal-productivity determination will be made in terms of the wage of labor (which, under these conditions, will be equal to marginal cost).

Under these circumstances, an employer who wishes to maximize profits will hire labor only up to the point where the last additional worker adds just enough revenue to compensate for the wage he receives. The lower the wage, the larger will be the size of the work force employed, since the employer can afford to keep on the payroll at such low wage rates those workers whose marginal contribution to the revenues of the firm is comparatively small. When wage costs rise, however, he will be compelled to lay off these men in order to achieve a new equilibrium in which the marginal revenue productivity of the least valuable man employed will be sufficiently great to equal the new higher wage level.

Wage Increases and Layoffs

The pressure on the employer to lay off workers when the wage rate rises comes about in two principal ways. In the first place, when wage costs rise, the employer generally finds it necessary to raise his price for his product in order to cover the increased labor costs. In some cases, he may find it inexpedient to raise prices but may achieve the same objective by lowering the quality of his product. In either case, whether the price

be raised or quality impaired, he will ordinarily sell a smaller output, even though it is possible that his total sales receipts may increase or remain constant. With a smaller physical production, he will find that he needs fewer employees and so he will be able to lay off some workers whose services are no longer required.

In the second place, when wage rates rise, the employer's profits will immediately be reduced. Therefore, a strong incentive is provided for him to review his entire production setup in an effort to cut costs and save money. Even without a change in output, the employer may find it possible by rescheduling output and rearranging work schedules to eliminate some workers. Furthermore, if labor becomes more expensive, the employer may find that it is now economically profitable to utilize new labor-saving machinery in the plant which will also have the effect of displacing labor. Such substitution of machinery for labor usually takes some time to effect. The employer may have limited space in his plant, or perhaps he may have to defer substitution until his existing machinery is more fully depreciated. Substitution of machinery for labor, therefore, is ordinarily felt most as a long-run consequence of wage increases. It will be considered below in connection with our analysis of the long-run effects of wage pressure.

Relation of Demand Elasticity to Layoffs

As has already been pointed out, the amount of unemployment produced by a wage increase in the individual firm will depend in part upon the reduction in output which results from the wage increase and consequent increase in price of product. With a given rise in wage costs, the resulting unemployment will be the smaller the steeper the slope of the demand curve for the product. The demand curve for the product will have a steep slope or be "inelastic," as the economists call it, when increases in price of the product produce only a very small decrease in the quantity which consumers purchase of the product. A classic example of a product with an inelastic demand curve is salt. Even large increases in price would not materially affect sales of this product. If, however, the demand curve for the product is almost horizontal or "elastic," even a small increase in price will cause sales to fall off sharply with the result that a large curtailment will be required in the labor force.

The range of possible reactions of employment to a wage increase may be crystallized by considering the difference in effect of wage increases under two extreme conditions of elasticity of demand for product, first in a firm with a perfectly inelastic demand curve and second in a firm with a perfectly elastic demand curve. In the former case, the increase

in costs resulting from a wage adjustment could be passed on completely to consumers in the form of a price rise without affecting sales volume at all. Therefore, there would be no unemployment caused by the price rise, although there could still be some unemployment resulting from substitution of factors within the firm. In the second case, at the other extreme, the firm with the elastic demand curve would be unable to pass any of the price increase on to consumers. The employer would find that to maximize profits he would be better off selling a smaller volume at the same price and would therefore sharply curtail output and employment.

Firms in monopolistic positions are able to raise the price of their products without affecting sales materially, since consumers cannot shift easily to substitutes. On the basis of the foregoing theoretical analysis, therefore, we should expect that in firms which have an entrenched and protected position in the product market built up through advertising, patents, and sheer size and financial power, wage increases would produce relatively larger price increases and relatively less displacement of labor than in highly competitive companies.

Long-Run Effect of Wage Increases

The extent to which wage increases will produce unemployment in the individual firm in the long run can be summarized in the form of four laws:¹

If wages are raised, the resulting unemployment will be smaller in amount:

1. The less elastic the demand for the product.
2. The smaller the substitutability of labor in the process of production.
3. The smaller the proportion which labor costs form of total costs.
4. The less elastic the supply schedules of the complementary factors.

These "laws" are applicable in both the short run and the long run, but it is only in the long run that factors 2 and 4 come into full operation. In essence, these two tendencies reduce to the degree of fluidity of capital. It is machinery that is ordinarily the complement of labor, as well as its most important substitute. In the long run, capital not only can be substituted for labor (factor 2) but also it may be removed to other industries, or the supply may be altered (factor 4).

At any moment of time, employers, if they have acted rationally, will have pushed their use of labor and capital to the point where they

¹ These are adapted from Marshall's famous Laws of Derived Demand. See A. Marshall, *Principles of Economics* (London: Macmillan & Co., 1930), p. 384.

have reached a margin of indifference, i.e., it is immaterial to them whether they utilize a unit of capital or a unit of labor at the margin. From this it follows that if the price of labor rises, employers will find two actions profitable: (*a*) to substitute capital for labor by introducing labor-saving machinery; (*b*) to shift from less capitalistic to more capitalistic industries, i.e., to industries where the ratio of labor to capital is smaller. These reactions both take time. A full adaptation to an increase in the wage of labor may take years to work itself out. As a consequence, the full effect of wage increases upon the volume of employment can be observed only in the long run.

Circumstances in Which Wage Increases Do Not Reduce Employment

Suppose a union were to secure a substantial increase in wages from employers in a particular industry and the employers were then questioned as to the effect which the wage adjustment would have on their employment policies. What would be the typical response? Chances are that most of the employers would say the wage increase would not cause them to cut their labor force; that, on the contrary, they intended to increase employment. They would explain that they had to give the wage increase in order to retain their present labor force and to attract additional workers.

Employers normally grant wage increases when times are good and prices are rising. They make wage changes in a dynamic business environment in which demand and supply conditions are in a continual state of flux. Against such a changing background, it is quite possible that wage increases will not be immediately associated with any diminution in employment. Let us consider briefly the various circumstances under which a wage increase need not have any adverse effect on employment.

1. *When Output in the Individual Firm Is Increasing.* As we have already observed, one avenue by which wage increases affect employment is through the reduction in output which is caused by the increase in product price made to cover the higher wage costs. If, however, output is increasing in the firm at the time the wage increase is made, the effect of the wage adjustment upon employment is likely to be obscured, and employment in the firm may not be altered by the wage increase. Output may be increasing in a firm because of rising demand for its product attributable to a general business revival. During such a period, output, wages, profits, and prices all tend to rise together, and wage increases tend to be associated with increases, not decreases, in employment. Output may also be increasing in particular firms, even in periods of relative

business stability, because the firm is growing, or the demand for the product of the industry is growing, or for similar reasons. Obviously, a wage increase will have a more noticeable effect upon employment in the bituminous coal industry, where demand for coal has been steadily declining over the years, than in the chemical industry, where both output and employment are rapidly expanding. Not only does expanding output normally carry with it additional job opportunities but also in many industries, such as, for example, the steel industry, expanding output is associated with declining labor costs per unit of product. Therefore, if wage *rates* increase at a time when output is expanding in such industries, there may not even be any increase in unit labor costs since the increase in wage rates may simply be offset by the decline in unit labor costs attributable to the expansion of output.

2. *When Productivity Is Increasing.* As new and more productive machinery is introduced and changes are made in the organization of work, the productivity of labor tends to increase. This means that the employer will find that with a given number of workers he can now produce a larger output than formerly. Such advance in productivity—which is a continuous process in our dynamic economy—has the effect of reducing labor costs per unit of product. Therefore, if money wage rates are raised at about the same rate that increasing productivity lowers unit labor costs, the two trends may offset each other, and, on balance, there may be no net increase in unit labor costs. If the rate of increase in wage rates is no greater than the rate at which technological progress reduces unit labor costs, there will be no increase in unit labor cost, no increase in price, and no reduction in output and employment. However, although the wage increase under such circumstances does not produce unemployment, it may eliminate the possibility for any expansion of employment in the firm by preventing technological progress from being reflected in a reduction in price to consumers.

3. *When Labor Costs Are a Very Small Percentage of Total Costs.* In many firms, labor costs constitute a relatively small proportion of total costs—in some cases less than 10 per cent of total costs. In such firms, if wage rates rise by, say, 5 per cent, total costs would rise by only one half of 1 per cent. If the full increase in total costs were reflected in a price increase, the rise in price would be so small that sales volume, and therefore, employment might not be affected to any significant extent.

4. *When Prices Are Inflexible.* There are certain situations in which a wage increase, even though it increases labor costs per unit, will not produce a change in the price charged by the individual firm. In such circumstances, the employer may calculate that even though his profits

are being squeezed by failure to adjust prices, he would lose more if he tries to alter his price.

This condition may exist when there are only a few sellers in an industry. Such a situation is known as "oligopoly," and the demand curve of the individual firm, as seen by the employer, will often have a "kink" at the prevailing price.² This is simply a geometric expression of the fact that each seller in the industry calculates that if he lowers his price he will merely start a price war and therefore not appreciably increase his sales, whereas if he raises his price, his competitors may not follow suit with the result that his sales will fall off sharply. Above the prevailing price the demand curve for the product of the individual firm approaches the horizontal, and below the prevailing price the demand curve approaches the vertical—thus producing the so-called kink at the prevailing price. Under such circumstances, a rise in wage rates may not produce any change in prices or output. Consequently, employment will not be immediately affected. It must be borne in mind, however, that even when output remains constant, management may still find means of economizing on the use of labor which has become more expensive by reason of the wage increase. For example, in some industries, employers have sought to economize on the use of labor by resorting to the "stretch-out," i.e., a worker who had formerly tended only one machine is required to operate two machines at the same rate of pay. Through this and similar devices a smaller labor force can be used more intensively, and some workers can be displaced although output remains unchanged.

5. *When Exploitation of Labor Exists.* As we have already observed in Chapter 10, a wage increase need not produce unemployment where a condition of exploitation of labor has previously existed. In other words, if an employer has been paying labor less than its marginal revenue product, and the effect of a wage adjustment is to increase the wage rate to the point of equivalence of marginal revenue product and wage, there will be no incentive for the employer to alter his price, output, and employment.

The foregoing analysis indicates that, in the dynamic environment of the business world, the connection between wage changes and changes in employment is a very tenuous one. Wage increases do not necessarily produce increases in labor costs per unit of product—they may simply prevent reductions in labor costs attributable to technological change or increasing output from being reflected in price reductions to consumers.

² For a detailed discussion of this situation, the technical reader is referred to P. M. Sweezy, "Demand Under Conditions of Oligopoly," *Journal of Political Economy*, Vol. XLVII (1939), p. 569.

Even if the increase in wage rates increases labor costs per unit of product, it still may not affect prices where it is impracticable for the firm to raise prices because of competitive conditions; moreover, even if prices are raised, there need be no reduction in output or employment, if output was increasing anyway, or if the price increase is negligible because wages constitute such a small proportion of total costs.

Case Study: The Coal Industry

The effect of wage increases upon employment in an individual firm or industry takes a long time to become apparent. As has already been indicated, changes in demand and supply in the industry and economy tend to obscure the effect of cost changes upon the employment policies of the individual employer. But ultimately a day of reckoning comes when at last it becomes apparent that increasing wage costs have had an adverse effect upon employment. The coal industry provides an interesting example of how union wage pressure can slowly but surely reduce employment opportunities in organized firms.

Characteristics of Coal Industry

The coal industry is a highly organized industry. Somewhat less than 20 per cent of the total coal tonnage mined comes from nonunion mines. The balance comes from mines manned by John L. Lewis' United Mine Workers. Lewis has prided himself in winning for his union wage adjustments larger than those obtained by other union leaders for their own memberships. The statistics prove that, in terms of weekly wages, Lewis has done an outstanding job for his miners. Bituminous miners in 1956 had average gross weekly earnings of \$105.21 compared with \$80.13 for all manufacturing production workers.³

The coal industry is an industry in which labor costs are substantial. Indeed, labor costs are the major cost of production. In bituminous coal, for example, about 70 per cent of the expenses of production is represented by wage disbursements.

Given these facts, marginal-productivity theorists would predict that the large wage increases won by the miners must in the long run produce curtailment of employment in the industry. The reduction of employment would be expected to result from the diminution in output of coal associated with price increases and from a substitution of machinery for labor. Furthermore, if we look at the wage increases from the point of view of union firms, it would be expected that over the years there would

³ *The Economic Report of the President, January, 1957* (Washington, D.C.: U.S. Government Printing Office, 1957), p. 108.

be a gradual diversion of sales to nonunion firms which would be able to capture an increasing share of the market by reason of their advantage in having lower labor costs. What has been the actual experience in the industry?

Effect of Wage Pressure in Coal Industry

As John L. Lewis' aggressive wage policy forced up the price of anthracite coal which is used for home heating, consumers turned to substitutes, principally to oil and gas. As a consequence, production of bituminous, and particularly anthracite, coal dropped sharply. In the case of both fuels, users who have turned to substitutes such as oil and gas now find that these fuels have such an advantage in ease of handling, cleanliness, and assured supply that it is doubtful whether there would be a trend back to coal, even if the price of coal could now be substantially reduced. Certainly the anthracite market has largely vanished, and even such devices as automatic coal stokers have been unable to make it attractive to consumers. Perhaps the trend to such substitute fuels would have emerged anyway—at least this is the philosophical attitude adopted by the union—but it seems certain that the high wage policy of the union has greatly accelerated this trend.

The downturn in employment in the industry has been startling. From a peak of 704,793 men in 1923, employment in bituminous coal mining dropped to about 222,000 in 1955.⁴ Employment in anthracite mines dropped from 179,679 to 52,700 in the same period. Furthermore, those workers who were fortunate enough to retain jobs in the industry receive on the average only about 3 days' employment per week over the year. The curtailment of employment is attributable in part to displacement of labor by machinery and in part to falling production.

Displacement of labor by machinery in the industry represents the consequences of a technological revolution in the method of mining coal, which has undoubtedly received a stimulus from the large increase in wage rates won by the Mine Workers. Although coal mining still remains a disagreeable and hazardous occupation, the machine has taken over much of the arduous work which the miner used to perform by hand. Coal-cutting machines have replaced pick mining to a large extent. Automatic loaders have reduced by half the number of underground workers needed in a mine. Although the large-scale introduction of machinery in coal mining produced substantial technological unemployment, it served a desirable purpose from the point of view of society. It has made coal mining safer and easier; it has made labor more productive

⁴ *Survey of Current Business*, February, 1957, pp. 5-11.

so management can afford to pay higher wages; and it has made possible a shortening of hours of work so that today the miner is no longer a man "who never sees the sun."

Consumer resistance to higher coal prices, the competition of substitute fuels, and nonunion coal have put an increasing number of union mines in the loss column. In 1952 alone, over a hundred soft-coal mines were shut down because their operators found they could no longer produce at a profit. Lewis has forced wages and welfare benefits for his miners so high that it is estimated that a majority of all coal produced in commercial mines is being sold at less than the cost of production.⁵

Nonunion Competition

Every large wage increase won by the United Mine Workers increases the competitive advantages of the nonunion miners. These mines can afford to pay employees the going United Mine Workers' rate of wages and still have a substantial competitive advantage because they are not saddled with the 40 cents a ton contribution to John L. Lewis' welfare fund. As a result of this cost differential, nonunion mines can sell their entire output at a profit and provide their workers with a full week's employment rather than 3 days as in the case of most union mines.

This does not mean, of course, that Lewis is losing his hold on the industry. His power is formidable and will undoubtedly remain so for many years to come. Nevertheless, in recent years there has been a significant growth in the percentage of production which is nonunion. This increase has come about not through union mines going nonunion but by union mines shutting down and nonunion mines taking over their business.

It is possible that, in the next few decades, as oil reserves near exhaustion and the cost of oil rises, coal may again become competitive as a home-heating fuel. If this contingency should occur, there would be an increase in demand for coal, and employment would probably rise in the coal industry. The leaders of the Mine Workers take the view that the shifts in demand for coal which have occurred and which may occur in the future are the result of forces which are unpredictable and beyond their control. They, therefore, continue to pursue a policy which they believe is designed to provide the greatest economic benefits to their membership. Likewise, with respect to mechanization of mines, they believe that increased use of machinery is inevitable in coal mining because of the fact that labor costs are such an important part of total costs. They do not subscribe to the view that a less vigorous wage policy

⁵ *New York Times*, July 19, 1953, p. 48.

would have materially delayed the advent of the mechanical loader, cutter, and other machines in the industry. As we shall see in Chapter 16, there may be some merit to this theory so far as it applies to the rate of mechanization. However, there seems to be little doubt that union wage pressure in this industry has reduced employment opportunities in organized firms by placing these firms at a competitive disadvantage relative to nonunion firms in the same industry and relative to the producers of competing fuels.

WAGE CHANGES IN THE ECONOMY AS A WHOLE

We have seen that application of the marginal-productivity theory to the problem of wage increases in the individual firm indicates that the wage increase will result in a reduction in employment, "*other things being equal*." The latter assumption is made to rule out the complications which might otherwise be produced by concurrent changes in the demand for the product. As has already been mentioned, if a wage increase occurs in a firm at the same time as the demand for the product of the firm is growing and output is expanding, there need not be any immediate curtailment of employment. However, if other things remain equal—and if, in particular, we assume that the change in the supply curve for labor does not produce any change in the demand curve for labor—the wage increase will, according to orthodox economic theory, produce some reduction in employment in the individual firm.

When we come to analyze the effect of *general* changes in wage rates upon employment in the economy as a whole, we can no longer realistically assume that "other things will remain equal." The demand curve for labor in the economy as a whole is not independent of the supply curve for labor. Or to put the same proposition in a less technical way, changes in the amount of wages paid to labor as a whole are bound to affect the aggregate demand for labor. General wage adjustments affect the demand for labor because labor is industry's best customer, and if labor has more or less money to spend, the change in such expenditures may alter the total volume of employment in the economy. Furthermore, changes in wage levels throughout the economy will affect the profitability of investment with the result that employers may increase or curtail their purchases of capital goods. This, too, will affect the total demand for labor in the economy.

Determinants of Aggregate Spending

What determines the volume of spending in the economy as a whole at any given time? Our understanding of this problem owes much

to the theoretical analysis of John Maynard Keynes, a British economist, who developed a new approach to this problem in his famous work, *The General Theory of Employment, Interest and Money*, which was published in 1936.⁶ Keynes talks of total spending as "effective demand." Effective demand consists of two types of spending—spending by consumers, which is called consumption, and spending by businessmen for capital expenditures, which is called investment.

According to Keynes, as long as investment and consumption remain constant from one period of time to the next, output and employment also will be unchanged, and a stable level of income will be maintained from period to period with no tendency to expand or contract. In order to maintain such a steady flow of income through the productive process, the amount of expenditure upon new investment must, according to Keynes, be equal to the amount which people are prepared to save out of their incomes.

For example, suppose that national income is \$100 billion and that \$80 billion of it is derived from the production of consumer goods, while \$20 billion is derived from the production of capital goods. Assume further that consumers are prepared to spend annually \$80 billion of their \$100 billion income on consumer goods and to save the remainder. The total value of goods produced—both consumer goods and capital goods—is thus \$100 billion, while consumers are ready to spend only \$80 billion. Under such circumstances, in order to maintain national income at \$100 billion in succeeding periods, businessmen must be prepared to spend \$20 billion annually on new investment. If interest rates fall and make investment more attractive, businessmen would borrow money from the banks to undertake new investments and, as a result, incomes and employment would expand. The same reaction would occur if consumers were to increase their consumption. But if we assume that consumption and investment remain constant, then income and employment will remain constant from one period to the next.

Effect of a General Wage Adjustment: Special Case

Assume that unions obtain a general increase of 10 per cent in wage rates throughout the economy. Assume further that the wage increase has no effect on interest rates or businessmen's inclination to invest and no effect on consumption. What effect would the wage increase have on employment? The answer is contained in the assumptions for, as we have already observed, if consumption or investment do not change,

⁶ J. M. Keynes, *The General Theory of Employment, Interest and Money* (New York: Harcourt, Brace & Co., Inc., 1936).

employment must also remain unchanged. Prices would rise by 10 per cent, but output and employment would remain unchanged. A similar result follows if there were a 10 per cent reduction in wage rates under these restrictive assumptions. In the latter case, there would be a 10 per cent fall in prices with no alteration in output or employment.

Effect of General Wage Increase upon Aggregate Spending

The foregoing examples of possible reactions to a general wage increase and a general wage reduction are admittedly special cases in the general Keynesian theoretical framework. Keynesian theorists do not maintain that a wage increase will not reduce employment, nor do they contend that a wage reduction will not increase employment. They merely attempt to show by use of the foregoing type of example that a general wage adjustment need not affect employment at all and that if employment is affected it is because of the reaction of the wage change upon the real determinants of the volume of employment—namely, the volume of investment and the amount of consumption expenditures. If these variables are affected favorably so that total spending is maintained or increased, a wage reduction will increase employment, for there will now be the same or a larger aggregate demand to purchase goods whose cost, and presumably price, has been reduced by the wage cut. On the other hand, in the case of a wage increase, employment will increase only if total spending increases more than proportionately to the increase in prices produced by the higher level of costs.

Four possible reactions of total spending may be distinguished as resulting from a general increase in wage rates:

1. The wage increase may expand total spending more than it increases prices. This might be the case if a wage increase were made in times of business depression. Both businessmen and workers might take the wage increase as a signal that business revival was underway and so increase their expenditures. As industry increased its output from very low levels, labor costs per unit of output would tend to decline, and the economies in labor cost resulting from such increase in output might offset the increase in labor costs produced by the wage increase so that there would be, on balance, little or no increase in unit labor costs or in prices. Under such circumstances, the increase in total spending would buy a larger volume of goods and services and thus support a larger volume of employment.

2. The wage increase may increase total spending no more than it increases prices. Such a situation might develop if a general wage increase

were made throughout the economy at a time when output was at high levels and a point of full employment had been attained. Under such circumstances, the wage increase would produce a sharp increase in costs and prices, and there would be little or no effect upon employment. The increased spending would in effect be dissipated in the form of higher prices.

3. The wage increase may increase total spending but not as much as it increases prices. When a wage increase occurs during a period of inflation, it frequently causes price adjustments which are greater than the amount which would be required to compensate for the rise in labor costs. Businesses which have been looking for a pretext to raise prices now do so and blame the price rise on "higher labor costs." As a result, even if total spending increases, the rise in the general price level may be so great that the total volume of spending will be insufficient to purchase all of the goods and services offered at the higher price level, and output and employment may, therefore, decline in particular industries.

4. The wage increase may not increase total spending and may actually diminish it. This could happen if businessmen become alarmed by the rise in costs and prices and decide to postpone making new investments until prices come down to a more reasonable level. Consumers also may take a similar view. If this attitude of "wait and see" becomes prevalent, total spending may decline despite the higher level of wages, and employment will be reduced as a consequence.

Effect of Wage Increase on Borrowing, Investment, and Consumption

How does a general wage increase bring about a change in total spending? Of primary importance to the Keynesian theorists is the effect of the wage increase upon the rate of interest. When wages rise, businessmen are compelled to increase their working capital to meet larger cash requirements for payment of wages. For a time, the banks will be willing to increase loans without raising the rate of interest, but as the volume of outstanding loans increases, banks will ultimately raise interest rates and tend to become more selective in the borrowers to whom they will lend funds. At this point, the volume of spending will be affected in two ways. In the first place, the rise in interest rates will make certain investments unprofitable. Businessmen will curtail purchase of capital goods, and this will be reflected in smaller wage disbursements to employees in these industries. In the second place, refusal by the banks to loan to particular prospective borrowers because of the general tightening of the

credit situation will mean that these businessmen will have to revise their plans and curtail contemplated expansion, and this too will be felt in the volume of aggregate spending.

The increase in wage rates may also affect the anticipated profit rate on investment. If the rise in wages increases labor costs, it may increase the number of business failures and produce reduction of output and unemployment in marginal firms. This may have a depressing effect on the business community. On the other hand, if the wage increase is viewed by businessmen as the beginning of a general upswing in wages and prices, the profitability of present investment will be increased since presumably capital equipment will, in the future, be produced at even higher costs. Thus, businessmen may be induced to expand current expenditures upon investment.

A third possibility is that the wage increase will stimulate consumption. The initial effect of the wage increase may be to increase the size of the wage bill for industry at large. Furthermore, the rise in prices may tend to shift real income from fixed income groups to wage earners who obtain wage adjustments. Some economists believe that as a result of such a shift, a larger portion of incomes will now be spent and a smaller portion saved than under the former distribution. If so, the wage increase will be felt in a higher level of spending in the market for consumers goods. On the other hand, some investigations indicate that consumption expenditures are not likely to be significantly affected by shifts in income between various groups. On the whole, it must be admitted that very little is known about the effect of shifts in income on consumption habits of various income groups in the community and, therefore, it is premature to predict what effect wage increases would have on this variable.

It can be seen from the foregoing analysis that the net result of a wage increase upon the volume of spending and the volume of employment depends in large measure on the psychological effect which the wage increase has on the economy. If it is viewed as the beginning of, or part of, a sustained upward trend in business, the outcome is likely to be favorable to employment. On the other hand, if businessmen and consumers feel that costs have gotten out of line and defer purchases, the consequences of the wage increase upon employment will be adverse. Furthermore, the effect of the wage increase upon employment will be more favorable the earlier in a business upturn it occurs. As a boom wears on, the wage increase is more likely to be dissipated in the form of price increases and more likely to produce a rise in interest rates with a consequent reduction in investment and employment.

Appraisal of Keynesian Approach

Keynesian theorists and orthodox marginal-productivity theorists frequently arrive at the same conclusions, but the process of reasoning by which the conclusions are reached is different. This difference, though primarily one of emphasis, leads the two schools of thought to advocate different methods of controlling the volume of employment. Keynesian theorists, by focusing attention upon the behavior of consumption and investment, and by emphasizing that wage adjustments react upon employment largely through their influence upon the rate of interest, the anticipated profit rate, and consumption habits, have sought to control these basic determinants directly rather than to control wage policy. Orthodox economists, on the other hand, while admitting that wage changes may have to operate through other variables, still cling to the notion that wage policy itself is an effective method of bringing about desired changes in the level of employment. As we shall see in the next chapter, this difference in viewpoint is reflected in a difference in attitude concerning the desirability of wage cuts in depression as a means of stimulating employment.

The Keynesian theory has furnished the economist with valuable analytical tools which have a wide range of application. While there is some feeling that this theory and its advocates overemphasize the importance of changes in interest rates as a determinant of the volume of employment, there is no doubt that they have made an important contribution to clearer thinking in this field by directing attention to the effect of general wage adjustments upon the volume of total spending. Orthodox theorists tended tacitly to assume that aggregate demand would remain constant whether wage rates increased or decreased. Consequently, they were led to the conclusion that wage increases would produce price increases, reduced output, and contraction of employment. Keynes, however, demonstrated that aggregate demand is capable of expansion and that, as a consequence, it is possible that general wage increases will be reflected in a general increase in the price level with no reduction in output or employment. Orthodox theorists tended to think in terms of an inelastic supply of money; Keynesian theorists reason in terms of an elastic money supply which is the product of our modern credit system.

UNIONS, INFLATION, AND UNEMPLOYMENT

In recent years, many economists have come to the conclusion that persistent union pressure for higher wages must in the long run produce

either unemployment or continuing inflation. The argument runs something like this:

The Dilemma of Lewis' Law

For several generations, average output per man-hour of work of production workers in the American economy at large has been rising at a rate of about 2 per cent year year.⁷ A similar rate of increase is likely to occur in the future. If labor as a group were to receive the entire benefit of this gain in productivity, real wages could rise only about 2 per cent a year. With a stable price level, this would be the equivalent of increases in money wage rates of about 3 or 4 cents an hour. Should unions seek to raise money wages by more than this amount on the average year after year, the amount in excess of the increase justified by technological progress would tend to be reflected in a rise in the price level—in a creeping inflation. If, however, restrictions are placed on price increases—either through legislation or stringent control of the monetary system—then wage increases in excess of the amount justified by increasing productivity will tend to produce unemployment. Since in recent years, union wage increases have on the average exceeded 4 cents an hour by a substantial margin, it seems likely that union pressure in the immediate future will result in wage adjustments in excess of the critical amount. The conclusion therefore seems to be that unions threaten to produce either inflation or unemployment, with the result depending in large measure upon the action taken by monetary authorities with respect to the money supply.

This gloomy prognostication with its unpleasant dilemma has been given the name of Lewis' Law,⁸ after John L. Lewis, the United Mine Workers' chieftain who has been one of the leading protagonists of the large wage increase without regard for the consequences of the increase in costs produced by such adjustments. Does Lewis' Law present an accurate picture of future trends in our economy? It will help to assess the validity of this "Law" if we first reduce Lewis' Law to its basic premises. Professor Gottfried Haberler⁹ has stated these in terms of three postulates:

1. There is under any given set of conditions a certain critical limit

⁷ W. S. Woytinsky and Associates, *Employment and Wages in the United States* (New York: Twentieth Century Fund, Inc., 1953), p. 84, table 32.

⁸ By economist Walter A. Morton. See W. A. Morton, "Trade Unionism, Full Employment and Inflation," *American Economic Review*, Vol. XL (March, 1950), p. 26.

⁹ G. Haberler, "Wage Policy, Employment, and Economic Stability," in David McCord Wright (ed.), *The Impact of the Union* (New York: Harcourt, Brace & Co., Inc., 1951), p. 39.

beyond which the money wage level cannot be raised without producing either a rise in prices or unemployment.

2. Our society will not permit prices to rise indefinitely. Sooner or later, steps will be taken through fiscal or monetary policy or through direct legislative controls on prices to counteract continuing price rises.

3. Unions are not satisfied with wage increases which keep the wage level below the critical limit. Union wage adjustments will push beyond it. Therefore, unemployment must inevitably follow from union wage policy.

Let us examine each of these postulates in detail.

Critical Limit at Which Wage Increases Produce Price Increases

The first premise is generally accepted by economists as a basic fact. In times of business revival from a low level of output and employment, money wages can be increased for a time without any increase in prices and with expanding employment. As has already been observed earlier in this chapter, at such times the rise in money wage rates may be offset by a fall in unit labor costs resulting from the increased output, so that on balance there need not be any increase in labor costs per unit of product. However, as employment and output increase, these economies tend to be exhausted and eventually further increases in wage rates are reflected in a rise in labor costs per unit of product. Faced by such rising costs of operation, employers will normally attempt to pass on to consumers some part or all of the increase in costs.

As we have learned from our analysis of the effect of general wage adjustments, once wage increases produce price increases on a broad scale throughout the economy, the effect upon employment will in large measure depend upon what happens to the aggregate volume of spending. If the money supply is continually increased by new injections of credit so that consumers have sufficient funds to buy the output of industry at the increased prices, it is possible that there will be no curtailment of output and no unemployment. (This assumes that nonunion firms raise their rates along with union firms so that organized firms are not put at a competitive disadvantage by the wage adjustments.) On the other hand, if the banks or monetary authorities seek to restrict the monetary supply and raise interest rates, or if the government imposes direct price ceilings upon products, as it did during World War II, employers will find their profits squeezed between rising labor costs and more or less rigid prices, and they will suffer losses as a consequence. As a result, they will tend to restrict output, reduce employment, and substitute machinery for labor

wherever such substitution is economically advantageous. The point at which the critical level will occur will vary in different firms and different industries, but it is clear that such a level exists for the economy as a whole.

Limits of Creeping Inflation

Most economists would agree with Haberler's second postulate with the qualification that some small increase of prices would be deemed *de minimus*, i.e., so small as not to be significant. There would probably be general agreement that a rise in prices of about 1 per cent a year would not produce sufficient dissatisfaction from the public so as to make politically feasible either direct price controls or restriction of the monetary supply, particularly if the rising price levels were conducive to the maintenance of full employment. Professor Haberler concludes that if, in peacetime, inflation amounts to more than 5 per cent a year for 2 or 3 years, public pressure would bring on direct price controls or monetary measures designed to stem the inflation.¹⁰ Even an inflation of 2 or 3 per cent a year can have grave effects upon large segments of our population, but some economists believe that a continuing rise of approximately this magnitude will be tolerated. Professor Sumner H. Slichter, for example, believes that the price level will creep upward fairly steadily and with only minor interruptions during the next 10 years "giving us by 1967 a price level roughly 20 per cent to 30 per cent higher than the present one."¹¹ He characterizes the next decade as a period of rather steady gain in productivity, strong upward pressure on wages from powerful unions, slowly rising prices, increasingly stiff competition, more or less continuous credit restraint, moderate profits, large investments in owner-occupied homes, and steadily growing savings, particularly savings through pension plans and life insurance. He makes the interesting point that the government itself through the high corporate income tax will contribute to this inflation since if a wage increase of \$1 has a net cost to most corporations of only 48 cents, it is unrealistic to expect the resistance of corporations to the increase to be particularly strong.

Unions and Wage Inflation

The third postulate is perhaps of the most interest to the student of labor. It in effect casts unions as the villain of the piece—were it not for unions and their exorbitant wage demands, wage rates would not be

¹⁰ *Ibid.*, p. 39.

¹¹ Letter to Editor, published in *Journal of Commerce*, February 27, 1957.

pushed up as fast, and the dilemma, with its unpalatable consequences, would not have to be faced.

Is it true that unions make wage rates higher than they otherwise would be? To the average well-informed reader who has followed the pattern of union wage adjustments in recent years, the answer would seem at first glance to be an emphatic: "Yes." The fact is, however, that the answer is by no means clear, and there is evidence both for and against an affirmative answer to this question.

Do Unions Accelerate Wage Increases? Negative View

Those who contend that unions have not caused wage rates generally to rise any faster than they would have in the absence of union organization emphasize that changes in wage rates, like changes in prices, are simply the reflection of more fundamental developments in the underlying forces which determine supply and demand in the market place. They claim that the sharp increases in money wage rates which occurred in the post-World War II period were the result of an increase in the quantity and velocity of money which made itself felt through the pent-up demand for goods of all kinds. The growth of consumer credit, large expenditures upon plant and equipment incidental to the rearmament program, high farm incomes, and similar circumstances contributed to the inflation which made itself felt in the form of a shortage of labor and high wage rates. This school of thought concedes that the wage-price spiral was a contributing cause of the inflation, but it maintains that it was not the sole cause or even a sufficient cause to explain the degree of price inflation that occurred. Thus, Walter A. Morton concludes that "there is no reason to believe that prices would have risen less even if labor unions had been weak or nonexistent."¹² Morton and others of this school of thought do not deny that union wage adjustments did, in fact, feed the inflationary spiral, but they look upon such adjustments not as the motivating force of the inflation but merely as an avenue by which the basic inflationary forces were transmitted to wages and prices. In the post-war setting, unions were, so to speak, "simply thermometers registering the heat rather than furnaces producing the heat."¹³

Wage Gains among Unorganized Workers

In support of this position, it may be observed that money wage rates seem to have risen as fast, if not faster, in previous periods of in-

¹² Morton, *op. cit.*, p. 18.

¹³ Milton Friedman, "Some Comments on the Significance of Labor Unions for Economic Policy" in David McCord Wright (ed.), *The Impact of the Union* (New York: Harcourt, Brace & Co., Inc., 1951), p. 222.

flation when union organization was a negligible factor in the labor market. For example, in the period from 1917 to 1921, organized labor represented less than 12 per cent of the labor force, as contrasted with 25 per cent in the post-World War II period. Yet the rise in money wage rates generally in these two postwar periods of inflation were strikingly similar.

In particular industries, the comparison is even more illuminating. The wage increases in the steel industry between 1945 and 1948 are often pointed to as evidence of the achievement of strong union organization. The United Steelworkers obtained increases of 18½ cents an hour in February, 1946, an adjustment worth another 15 cents in April, 1947, and a further 13 cents an hour in July, 1948. However, in view of the great unsatisfied demand for steel which existed during this period—as evidenced by the persistent existence of the grey market for steel—there was undoubtedly a shortage of labor which would have led to increased steel wage rates in any case. But would the steel companies have granted such wage increases in the absence of union demands and bargaining power? Some evidence that they would have done so is afforded by the fact that the workers in this industry actually made larger percentage gains in money and real hourly earnings during the period 1914–20, when union organization was negligible, than during the period 1939–48, when the CIO United Steelworkers spearheaded wage increases in the industry!¹⁴

That union organization is not necessary to give workers large increases in money wages if the necessary basic factors are present—high demand for labor and/or shortage of supply of labor—is dramatically illustrated by a comparison of the gains in the form of wage increases achieved by domestic workers who, as a whole, are unorganized and soft-coal miners who are highly organized. Average annual earnings per full-time employee were 2.72 times as large in 1948 as in 1939 for domestic servants and 2.83 times as large for soft-coal workers.¹⁵ In both cases, the same basic forces were at work during this period: the work itself was physically unattractive and workers tended to gravitate to other fields. The relative shortage of labor in each of these lines of endeavor made it possible for the workers to obtain large gains in monetary income. Without the fanfare of a John L. Lewis, the unorganized maid has done as well in terms of relative increase in income as the union card-carrying miner.

Indeed, it can be argued that rather than accelerating increases in

¹⁴ Albert Rees, "Postwar Wage Determination in the Basic Steel Industry," *American Economic Review*, Vol. XLI (June, 1951), p. 400.

¹⁵ Friedman, *op. cit.*, p. 224.

the wage level, union organization has inhibited such increases. This argument rests on the premise that employers, in making upward wage adjustments in response to more or less temporary increases in demand which make it necessary to obtain additional labor, must take into account the possibility that demand for their product will eventually subside, and then they may be left with a higher level of costs. In an unorganized labor market, employers presumably are less concerned over the long-run consequences of raising wage rates, since if business falls off they can usually adjust their wage rates downward without difficulty. However, with a union in the picture, such downward revision is not easily obtained; and employers may, therefore, take this circumstance into account in determining how high wage rates can be safely raised. Therefore, it is quite possible that, in the steel industry and other industries where employers recognized that the high demand for output was abnormal and could not be long maintained at such a high level, wage rates might have advanced more rapidly in an unorganized market than they did in the actual unionized labor market.

Influence of Craft Unions and Industrial Unions on Wages

Milton Friedman, who is one of the school of economists who believe that the effect of unions on the wage level is exaggerated, makes a distinction between the effect of craft unions and industrial unions on wage levels. He concludes that, over the long run, craft unions can make their influence felt on the wage level, whereas industrial unions are likely to be much less effective. Since, however, total craft union membership is probably not over 6 million, he concludes that probably not over 10 per cent and certainly not over 20 per cent of the labor force has had its wages significantly affected by unions.¹⁶

It has long been agreed by economists that a factor of production could increase its own price the most without substantially reducing its employment if it was essential to the production of a final product and if its cost represented a relatively small portion of the total costs of production of the product. These crucial conditions are particularly true of craft unions. Normally, a craft union is composed of a group of highly skilled workers who perform an essential function in making a particular product. By limiting entrance to the trade and imposing other restrictions, they are able to prevent their skill from being easily learned, and, therefore, they are able to perpetuate to some extent the essential nature of their duties. Furthermore, since a particular craft union will ordinarily represent only a relatively few of the many workers in a modern factory,

¹⁶ *Ibid.*, p. 215.

the total amount of wages paid to the members of the craft will constitute a minor portion of the total costs of producing the final product. In such a situation, these strategically placed workers by bargaining collectively and using the weapon of the strike and picket line to tie up an entire plant can and have achieved large wage gains for themselves. Moreover, because of the essential nature of their jobs and the relatively scarce supply of their particular skills, their power over production can be asserted even in times of business recession.

Industrial unions, which cover all of the workers in a plant, fail to meet these conditions. The work of individual workers who are members of the union is ordinarily not essential, although the services of the entire group are, of course, required. Moreover, since the industrial union represents all, or practically all, of the workers in the plant, a wage increase will have a substantial effect upon total costs and upon prices. In times of business depression, the cohesiveness of the union is difficult to maintain since each worker knows that almost any unemployed worker can perform his job. Friedman points out that the newer industrial unions like the Automobile Workers and the Steelworkers have operated primarily in periods of good business and inflation when wages would have risen anyway because of underlying inflationary economic conditions. The real test of these unions will come when the boom ends and unemployment sets in. As Friedman notes, from 1920 to 1933, when the general price level was stable and coal was being displaced by oil, the "United Mine Workers practically went to pieces."¹⁷

Do Unions Accelerate Wage Increases? Affirmative View

A number of economists have concluded that unions do push up money wages to a level higher than that which would exist in a non-union economy. Sumner H. Slichter points out that it would be surprising if unions did not have this effect in view of the fact that the principal purpose of the trade-union movement is to influence the level of money wages.¹⁸ Unions have compelled many companies to accept conditions which management opposed, such as the union shop and the closed shop. It would seem strange if their bargaining power could not also compel management to accept wage levels above those that management would voluntarily establish for nonunion employees. Evidence of the ability of unions to force such high wage levels on employers is found in the his-

¹⁷ *Ibid.*, p. 209.

¹⁸ S. H. Slichter, "Do the Wage-Fixing Arrangements in the American Labor Market Have an Inflationary Bias?" *American Economic Review*, Papers and Proceedings, 1953, pp. 322-46.

tory of the many employers in the coal, hosiery, cotton textile, garment, and shoe industries who were forced out of business because the union compelled them to pay wages above the nonunion scale.

According to Slichter, however, the influence of unions on money wages cannot be determined by comparing movements of wages in highly organized industries with movements in less well organized industries. The reason given is that union organization and union pressure for increases in organized firms exercise a general market influence which may cause the money wages of nonunion workers to rise as fast as (and sometimes faster than) the average wage of all union workers. The market influence of union wage pressure is particularly prominent in years of intense organizing activity or numerous strikes. For example, from 1936 to 1937 trade-union membership grew by over 3 million, or more than the entire trade-union membership at the depth of the depression in 1933. At the same time, there were numerous and violent strikes. Despite the fact that in 1935 there were more than 8 million workers unemployed (about one sixth of the labor force in that year), the United States Steel Corporation offered its company unions a 10 per cent wage increase in March, 1936, and then in 1937 agreed with the Steel Workers Organizing Committee, which organized its employees, to give a second increase of 10 cents an hour. Hourly earnings of factory workers rose from 55.5 cents an hour in October, 1936, to 64.3 cents in December, 1937, as industry in general sought to bar union organization by meeting or bettering union adjustments in wages.

From the end of World War II to 1953, there was no substantial difference in the increase in average hourly earnings in the organized pattern-setting industries such as steel and automobiles, in manufacturing as a whole, and in retailing and wholesaling which are largely unorganized. For example, from February, 1946, to January, 1953, straight-time hourly earnings increased 55.9 per cent in wholesaling and 60 per cent in retailing. Slichter interprets these figures to mean not that unions were unsuccessful but rather that the rest of industry followed the lead of the highly organized industries. He finds that in years such as 1945 and 1946, when the CIO was setting patterns for wage increases of 15-21 cents an hour in oil, steel, and automobile industries, most wage increases being negotiated or granted at the time were far below the pattern. In other words, the settlements made by strong union pressure in these industries were well above settlements being made in nonunion plants at the same time and therefore they had the effect of accelerating the rise in the general wage level.

A number of other economists agree with Slichter that, given condi-

tions in the market favorable to exercise of union bargaining power, union organization results in a greater inflation in wages and prices than would occur in a nonunion economy. A number of reasons are advanced in support of this contention. First and foremost is the dominant position of labor unions in our key industries. Between 80 per cent and 100 per cent of employees are under union contracts in the aluminum, steel, coal and metal mining, automobile and automobile parts, agricultural equipment, rubber products, shipbuilding, building construction, longshoring, railroad, and trucking industries. With such complete control of the labor force in these industries, unions are in a position to exact higher rates than would be the case in a free labor market. Furthermore, since bargaining tends to be on a multiunit basis, all or most of the employers of the industry have their labor costs raised more or less simultaneously. As a result, there is a natural inclination to raise prices, since each producer knows that his competitor "is in the same boat" and will welcome a chance to pass on increased costs to consumers.

In the second place, in a highly unionized economy key wage bargains are spread rapidly from one industry to another, even though supply and demand conditions within the "follower" industries may not justify the same increase as that granted in the "leader" industry. Union workers are strong believers in uniformity of wages—that is, uniformity with the highest wage rate paid. This is particularly true where members of one international union may be employed in a number of industries. If a profitable firm in one industry employing members of a particular union gives a large wage adjustment, the cry immediately goes up from the membership to obtain the same increase for all members of the union. Whereas in a nonunion economy wage adjustments are likely to spread gradually by affecting local supply and demand conditions and to vary in size depending upon the profitability of the particular firm and local conditions, in a unionized economy key wage adjustments jump rapidly from one industry to another. Union business agents learn of increases won by other unions and incorporate the same size demands in their own wage negotiations, regardless of the differences in cost and demand conditions which may prevail in the particular firms with which they bargain.

Thus, it is possible that wage increases may spread more rapidly and may be more likely to produce price increases in a unionized economy than in a free labor market. One factor working in the opposite direction must, however, be mentioned. Union rates are fixed by contract, usually for an average period of 1 or 2 years and this may possibly cause some lag in the catch-up process as compared with a nonunion labor market. However, many unions have been able to open contracts during their

term in times of labor scarcity, and in other cases contracts have expressly provided for reopening or for automatic wage adjustments in times of rising cost of living.

Effect of Unemployment on Union Wage Pressure

Perhaps the strongest reason for believing that unions can raise the wage level faster than unorganized workers is the fact that the wage policies of unions are less sensitive to the existence of unemployment than the wage demands of individual workers. It is generally acknowledged that union organization increases the rigidity of wage rates in times of business depression. For example, in 1938 when this country suffered a very sharp recession and unemployment reached the 10 million mark, wages were not reduced by leading industries for the first time in the history of any depression in the United States. The United States Department of Labor reported that only 791 out of 26,000 manufacturing establishments covered in a survey made any reductions between January and July, 1938, when most of the reductions took place.¹⁹ This was largely attributable to the resistance to wage reductions offered by labor unions.

It has been said by a prominent economist: "The existence of unemployment and the threat of more unemployment is the most effective and in democratic countries perhaps the only effective restraint on union power."²⁰ No one can say how much unemployment must develop before union leaders consider it dangerous to use the strike to gain wage increases. The picket line may be effective, even in the face of unemployment. To be a strikebreaker and cross picket lines has attached to it such social opprobrium (and sometimes physical danger) that ordinarily few workers wish to risk social ostracism (or injury) by taking this step. Undoubtedly workers will do so if unemployment grows large enough, but the fact that unemployment compensation is available for unemployed workers has lessened the supply of potential strikebreakers. And as long as the picket line holds, unions remain in a strong position to make effective wage demands.

Events indicate that unions will press for further advances in wage rates, even when profits are declining and unemployment is growing in an industry. For example, in the fall of 1953, rubber tire manufacturers, faced by the highest level of inventories in 24 years, were laying off workers and curtailing output. At the same time, dealers were offering tires at special sales at 25–30 per cent below list price. Despite the unfavorable demand conditions in the industry, the rubber workers obtained increases

¹⁹ S. Barkin, "Industrial Union Wage Policies," *Plan Age*, Vol. VI (1940), p. 10.

²⁰ Haberler, *op. cit.*, p. 43.

averaging about 12 cents an hour, and the tire manufacturers found it necessary to raise list prices to compensate for the higher costs. A similar situation characterized the television industry.²¹ This pattern was pointed to by some economists as indicative of the power of unions to carry over key wage bargains from a profitable sector of industry to a relatively non-profitable sector, and thus to accentuate the general upward advance of wages and prices.

Whether or not unions accelerate the advance of wage levels in the upswing phase of business cycles, it seems probable that in times of recession they minimize the downward adjustment in rates which, in the absence of unions, would tend to take place. Consequently, over the period of the business cycle, unions probably raise the upward trend of wage rates over what it would be in a nonunion economy. This does not necessarily imply, however, that the average rate of increase in money wages will be faster than the rate of increase in man-hour output. If the former does not outrun the latter, prices need not rise, and the dilemma of inflation versus unemployment would, of course, not present itself.

Appraisal of the Dilemma

Among those economists who believe that union wage pressure will cause money wages to outrun increasing productivity, there is a difference in opinion as to what the result will be. Some economists believe that the Federal Reserve System, by controlling the rate of interest and the supply of money, can prevent inflation from getting out of hand. For example, Walter Morton says: "The central bank will resist inflation and labor and business will be obliged to act accordingly."²² This assumes that the Federal Reserve authorities will be able to resist pressure from businessmen, labor officials, and farmers who will want continued relaxation of credit in order to let the boom run on. It also assumes that if the Federal Reserve restricts credit, businessmen, who find that they cannot pass on price increases because of a contraction in spending, will be able to resist the demands of unions for further wage increases. Other economists are less sanguine about the outcome. Some, such as Charles E. Lindblom,²³ conclude that unionism and the private enterprise system as we know it are incompatible and that continuing union pressure on wages must eventually lead to some form of governmental control of the labor market.

²¹ *Wall Street Journal*, October 5, 1953, p. 1.

²² Morton, *op. cit.*, p. 34.

²³ Charles E. Lindblom, *Unions and Capitalism* (New Haven: Yale University Press, 1949), p. 85.

Time alone will tell which school of thought is correct. We should not however accept without question the postulate that money wage rates will continue their steady climb in the future without interruption. Some economists believe that what has happened to wages and prices in the past decade has been the outcome of two unusual circumstances—shortage of labor and easy credit—which will be altered in important respects in the years to come.

The labor shortage can be traced to the low birth rate of the thirties, as a consequence of which the number of workers entering the labor force in the fifties has been abnormally low. Commencing with 1960, however, the number of persons in the 20–64 age group will increase rapidly. In fact it has been estimated that between 1960 and 1975 the increase in this age group ought to double the growth in all other age groups—exactly the opposite of the trend in the preceding 15 years.²⁴ Will all these new entrants to the labor market be able to find jobs? A dynamic growing economy may be able to absorb them. Likewise, job opportunities may be created by a further reduction in hours of work. Yet the possibility cannot be ignored that the shift in population structure will add many persons to the labor market who will be unable to find employment. If this condition should develop, it may act as a damper on union efforts to raise money wages.

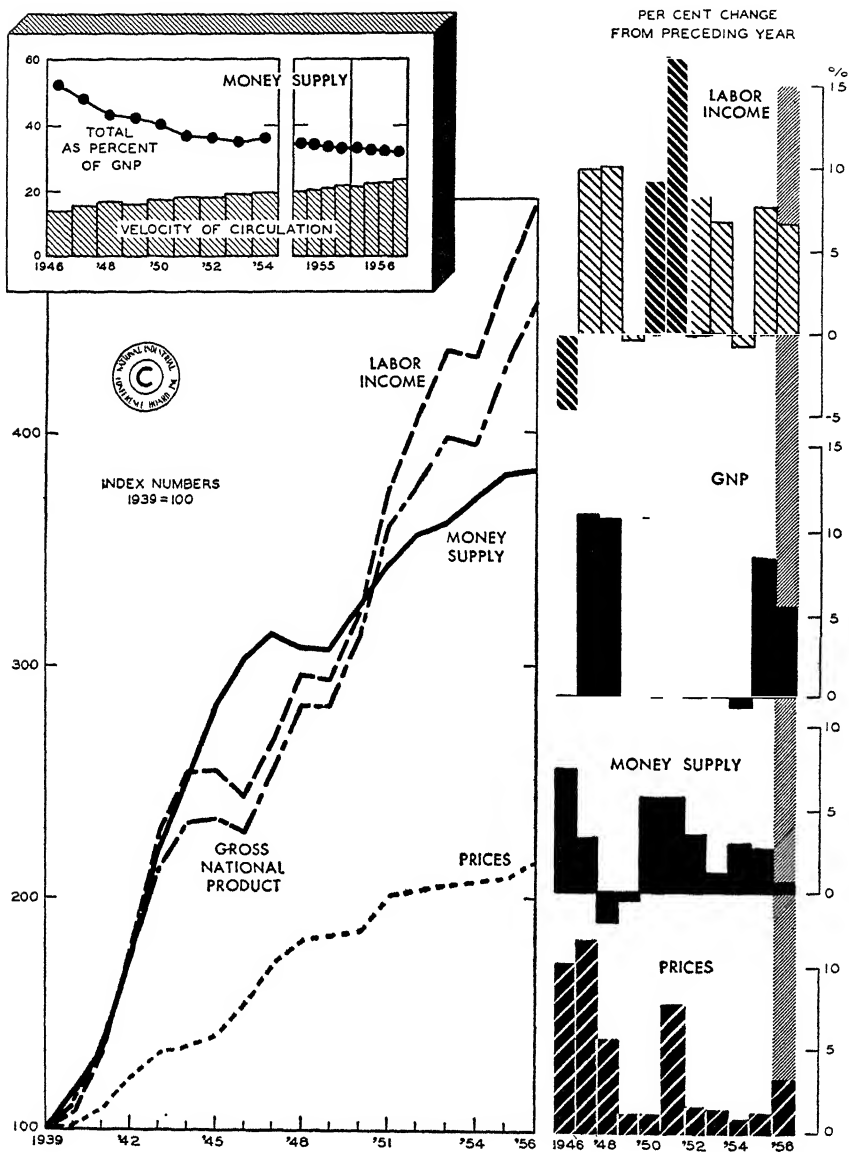
The second circumstance which facilitated the wage-price inflation of the last decade was the expansion of credit which occurred during this period. Because of the abundance of savings and liquid reserves, consumers and businessmen had no difficulty in finding money to finance their growing needs. By 1957, however, these large pools of liquid assets had been largely exhausted. Businessmen found it necessary to learn the rules of living under a regime of tight money.

It will take some time for the change in the number of entrants to the labor market to make its impact felt. Furthermore, history has demonstrated that strong unions can and will press for higher wages even when substantial unemployment exists. In the immediate future, therefore, if there is to be any brake on the wage-price spiral, it can arise only from restriction of credit. If businessmen find that because of restraints on the volume of money it is difficult to pass along higher wage costs to consumers in the form of higher prices, they will resist wage increases and the upward spiral will be somewhat retarded. However, the control of the money supply—at least within the degree of control which has thus far been utilized by the Federal Reserve—is not wholly adequate as a

²⁴ Peter L. Bernstein, "Is Long-Term Inflation Inevitable?" *Harvard Business Review*, Vol. XXXV (July–August, 1957), p. 53.

FIGURE 23

CHANGES IN LABOR INCOME, MONEY SUPPLY, GROSS NATIONAL PRODUCT,
AND PRICES, 1939-56



SOURCE: National Industrial Conference Board, Inc.

curb to a wage-price inflation. As Figure 23 illustrates, since 1955 money supply has been curbed by the Federal Reserve, but labor income has continued its rapid advance. Undoubtedly drastic curbs by the Federal Reserve could halt the inflationary spiral, but only at the risk of producing a major recession. There is therefore today a serious question whether monetary controls can be applied in our economy in a manner which, on the one hand, is politically and economically feasible and, on the other hand, is effective to control an inflation which in an important degree stems from nonmonetary forces.

QUESTIONS FOR DISCUSSION

1. "The existence of unemployment and the threat of more unemployment is the most effective and in democratic countries perhaps the only effective restraint on union power." Comment on this quotation.
2. Under what circumstances will a wage increase in a firm have little or no effect on employment in that firm? Under what circumstances will a general wage increase throughout the economy have little or no effect on employment in the economy?
3. Are union organization, full employment, and price stability compatible in a democratic society? Discuss the economic and political implications of this question.

SUGGESTIONS FOR FURTHER READING

BERNSTEIN, PETER L. "Is Long-Term Inflation Inevitable?" *Harvard Business Review*, Vol. XXXV (July-August, 1957), pp. 51-57.

A different point of view on the inflation problem suggesting that long-term inflation is *not* inevitable and may end in the 1960's.

KEYNES, J. M. *The General Theory of Employment, Interest and Money*, chap. xix, pp. 257-71. New York: Harcourt, Brace & Co., Inc., 1936.

Statement of the Keynesian theory of the effect of general wage changes.

LINDBLOM, C. E. *Unions and Capitalism*, especially chaps. x and xi, pp. 125-55. New Haven: Yale University Press, 1949.

Statement of the view that the consequences of union organization are inflation and unemployment.

MORTON, W. A. "Trade Unionism, Full Employment and Inflation," *American Economic Review*, Vol. XL (March, 1950), pp. 13-39.

Statement of the view that unions are not primarily responsible for inflation and that stability of prices with full employment can be achieved even with a strong trade-union movement.

Chapter 14

UNIONS AND THE BUSINESS CYCLE

A major problem in our modern economy is presented by the fluctuations in investment, income, and employment which are commonly referred to as the business cycle. The periodic fluctuations in business conditions—from boom to bust and back again—which have characterized our industrial development, touch the lives of each and every one of us. In this chapter we shall consider how union organization may affect the course of the business cycle. Does union organization increase or decrease the lag of wages behind prices over the cycle? Will union wage policies tend to mitigate the severity of depression by putting a floor under the deflationary spiral? How will various nonwage aspects of union policies alter the cyclical pattern?

THE ROLE OF WAGE MOVEMENTS IN BUSINESS-CYCLE THEORY

Although it is generally conceded that wage movements affect the course of the business cycle, the movement of wage rates is not a crucial or primary causal factor in most cycle theories. This is not surprising, since *cycle* theory is an explanation of the *periodicity* in business fluctuations. It therefore must seek as a basis some inherently unstable mechanism in the economic system which, either through self-generation or else in connection with external forces, produces ups and downs in employment and income. While wage rates do fluctuate over time, these movements by and large represent reactions to underlying business conditions which must be explained by other more fundamental determinants. Since changes in wage rates are not likely to be a primary cause of the fluctuations in business activity which have characterized American economic development, any alteration in the general pattern of wage movements induced by union organization is more likely to modify, rather than to eliminate, cyclical movements in employment, income, and prices.

Causes of the Business Cycle

Predictions as to the effect which strong union organization in the labor market will have upon the course of business cycles in the future depend to a large extent upon the particular theory of the business cycle which the prognosticator espouses. For example, many union leaders maintain that the periodic pattern of boom and bust which we call the cycle is fundamentally attributable to the distortion of income and resulting underconsumption which develops during the boom phase. Because of the lag of wages behind prices—so the argument goes—business makes abnormal profits which encourage overexpansion at the very same time as the wage lag is diverting funds from workers who must be able to buy the product of industry. The prosperity phase could be prolonged, according to this theory, if wages were raised rapidly enough at the peak of the boom. On the basis of this theory, which has become known as the “underconsumption theory” of the cycle, union organization might tend to stretch out the period of prosperity since, as will be pointed out later in this chapter, there is some tendency for union wages to continue to rise at the peak of the cycle when nonunion wages have already turned down. However, to the extent that union contracts create a greater lag of wages behind prices, the overexpansion of the boom phase would be accentuated, and presumably the ultimate period of depression would be rendered more severe.

On the other hand, many economists subscribe to the theory of the cycle which holds that the primary force impelling fluctuations in economic activity is the impact of outside influences—inventions, war, new discoveries. These are the factors which induce management to invest in new plant and equipment, to undertake new ventures, and to expand employment. But when the new investment has caught up with the developments of science and technology and employers have exploited to the limit what is economically feasible, or when the war ends and peace comes, there is a contraction in investment, output and employment fall, and the stage of depression is at hand. Union wage policies are relegated to a minor role in this theory. However, if unions were to attempt to limit profits to their 1936–39 average or to any other figure as a “normal” base¹ or through wage pressure were able to divert to labor most of the gains of increased productivity resulting from technological progress,

¹ The notion that this period should be taken as a basis for figuring “normal” profits was advanced by Robert Nathan in his analysis of wage policy prepared for the CIO. See *A National Wage Policy for 1947* (Washington, D.C.: Robert Nathan Associates, 1946), p. 9.

they might "nip in the bud" an incipient boom before it becomes full grown, for a boom grows through the plowing back of profits in new plant and equipment.

There are, of course, many other theories of the business cycle. The interested reader can find discussions of these theories in standard texts on the business cycle, one of which is cited in the bibliography at the end of this chapter. The diversity of theories of the business cycle has been referred to here simply to indicate that there is no sure and definite answer as to the effect that unions will have on the cycle, nor is there even any unanimity among economists as to what wage policy would be best adapted to mitigate cyclical fluctuations in investment and employment.

All of these problems must be approached from a frame of reference. The union leader argues strenuously for rigidity of wages in depression because maintenance of wages best suits his needs and the needs of his membership, and he can back up his arguments with convincing economic logic. On the other hand, employers often are found on the side of wage reductions in depression, since this best suits their objectives, and they too can find both theory and logic to support their position. It is therefore important in attempting to appraise the validity of an argument in favor of a particular wage policy to consider first the theory of the business cycle upon which the proponent unconsciously relies.

THE EFFECT OF UNIONS ON CYCLICAL WAGE LAG

Over a long period of years a tendency has become observable for the movement of prices to precede movements of wages over the cycle. Thus, in periods of business recession, wages may continue moving downward for 6 months or a year after prices start moving upward. On the other hand, when prices move downward at the end of a boom, wage rates for a time may drop little or not at all. What effect will union organization have upon this lag of wages behind prices?

Union Wage Rates and Nonunion Wage Rates in the Cycle

The precise effect which union organization has and may be expected to have on the course of wage rates over the cycle is not clear. There is some reason to expect that union wage rates will lag behind nonunion rates in the downswing. The statistical data available, however, is not clear and in some cases leads to contradictory conclusions. Because of the smallness of statistical samples available for study, it is not clear where a particular series shows a lag of union rates behind non-

union rates, whether this lag is attributable to union organization or to the peculiarities of demand, profits, and cost trends in the particular firms and industries in which union strength is concentrated. For example, union scales in the building industry rose in 1930 and continued to rise slightly in 1931 at a time when the deflation in the general wage level was well advanced. Was this lag attributable to the bargaining power of unions in the building industry or was it simply a reflection of the well-known fact that the construction industry has its own cycle of ups and downs in demand which do not necessarily coincide with fluctuations in general business activity? Likewise, it is known that union wage rates in general continued to rise well after the downturns of both 1920 and 1929.² However, union organization in these 2 years was confined to such a small segment of the economy that this movement may reflect unusual demand situations in the organized industries rather than the strength of union organization itself.

One statistical study—the so-called Douglas series³—purports to give a comparative picture of union and nonunion rates from 1890 to 1926, the longest period covered by any such comparative statistics. The series consists of average hourly earnings and index numbers of money earnings and real earnings in fourteen manufacturing industries, eight of which are classified as nonunion and six as union. The nonunion sample, however, is heavily weighted with such highly competitive industries as cotton textiles, boots and shoes, clothing, and hosiery. These industries are among the first to be compelled to cut prices when business declines, and therefore they are usually the first to seek wage reductions. It is not surprising, therefore, to find that the nonunion sample tended to lead the union sample in the downswing. The results in the upswing were not clear from this series. However, in view of the smallness of the sample and its obvious bias, it would be dangerous to generalize from the results of this survey.

Factors Affecting Wage Lag

In estimating the significance of union organization upon the pattern of wage movements, it is essential to recognize that collective bargaining is only one of a number of factors which affect the timing and the size of wage adjustments. For example, reductions in the 1929–33 depression typically occurred first in those industries where labor costs were

² S. H. Slichter, "The Changing Character of American Industrial Relations," *American Economic Review*, Vol. XXIX (March, 1939), Supplement, p. 134.

³ Paul Douglas, *Real Wages in the United States, 1890–1926* (New York: Houghton Mifflin Co., 1930), chap. vi. Some shortcomings of this series are pointed out in A. M. Ross, *Trade Union Wage Policy* (Berkeley, Calif.: University of California Press, 1948), chap. vi.

relatively more important and where competition in the product market forced price declines as buyer resistance developed.⁴ The latter circumstance may be of such compelling influence that it overshadows any tendency toward wage rigidity imparted by union organization. Indeed, one study of the 1929 downturn—likewise based upon a limited sample—indicates that the lag in hourly wage rates behind the cyclical downward turning point in employment was actually greatest in industries which during the period were not unionized!⁵ This does not, of course, mean that unionism increased the downward flexibility of wages—it simply indicates that in the unionized industries which happened to be included in this study, other factors were also operating which tended to offset the rigidity of wage rates normally produced by union organization.

Likewise the length of lag in wage rates behind the downturn in employment when recession sets in does not seem to bear any close relationship to the degree of union organization. Here, too, other factors are at work which are apparently more important in determining whether management will be able to continue to pay high wages after demand and output have slackened. Thus, for example, it has been observed that the wage lag tends to be greatest in the larger firms and in the industries with the largest firms, size of firm being measured by the value of product.⁶ This is to be expected, since the large firms are frequently in a better position to maintain high rates because of larger profits and a stronger financial position. More than size, however, it is the profitability of the firm which determines whether wage rates will be maintained, and if, as in the paper industry, the small firms tend to be profitable ones, then they will be slower than large companies in cutting wages.⁷

Wage levels and the timing of wage changes are also a function of the location of plant, of the personalities of union leaders and management officials, and of a myriad other factors which cannot be reduced to a simple formula. Moreover, since most statistics of wages are averages, the results are subject to many statistical pitfalls—shifts in the relative number of high- and low-paid workers, variation in number of hours worked, and so forth. Consequently, even if there were series available which purported to trace the movement of union and nonunion wage

⁴ J. T. Dunlop, *Wage Determination under Trade Unions* (New York: Macmillan Co., 1944), pp. 145–48.

⁵ J. Shister, "Note on Cyclical Wage Rigidity," *American Economic Review*, Vol. XXXIV (1944), p. 111.

⁶ J. Shister, *Economics of the Labor Market* (Chicago: J. B. Lippincott Co., 1949), p. 440.

⁷ *Ibid.*, pp. 439–42.

rates down to date, much of our analysis would have to depend, nonetheless, upon *a priori* deductions.

Future Trends in Wage Lag

On the whole, although the statistical evidence of experience to date is by no means wholly adequate or clear in its implications, it seems likely that in any future recession union organization will increase the lag of wages behind prices as business turns downward. In times of falling prices, unions are able to maintain wage rates without reduction for a longer time than would be the case in a nonunion labor market. Unions already have demonstrated this ability in the 1938 recession. Today unions are far stronger, and their treasuries are better able to withstand the drain of unemployment and depression.

With respect to wage lag in the upswing phase of the cycle, conflicting tendencies must be recognized. On the one hand, as has already been mentioned, the fact that collective bargaining agreements set wages for a definite period—customarily a year or more—tends to increase the time lag of wage changes behind price changes. If contracts limiting wage reopenings or wage adjustments during the term of a contract to once a year continue to be the vogue, union organization will probably tend to increase the lag of wages behind prices in future booms. But union officials are becoming increasingly cognizant of the fact that in times of rising prices organized labor is likely to run a losing race with the cost of living. For this reason, many unions in recent years have incorporated cost-of-living adjustment provisions in their collective bargaining agreements. Such provisions provide for automatic upward revision in wage rates, usually on a quarterly basis, based upon changes in the United States Bureau of Labor Statistics cost-of-living index. Other unions with a similar objective in mind have included provisions enabling them to reopen the wage clause of collective bargaining agreements in the event increases in the cost of living exceed a given amount. We have already had occasion to examine in Chapter 4 the so-called “living document doctrine,” advanced by Walter Reuther, which, in effect, would enable unions to reopen wage negotiations at any time that previously negotiated rates became inadequate in the light of subsequent changes in the price level.

These developments suggest that there is a definite trend in union thinking toward making union contracts more flexible in periods of inflation in order to enable wage changes better to keep pace with price changes. If such devices were to be generally recognized by employers,

cyclical wage lag might not only be reduced but might almost be eliminated. As a matter of fact, widespread adoption of automatic upward cost-of-living adjustment provisions in union contracts would give our economy "built-in inflation." General wage increases would immediately produce increases in the cost-of-living index which, in turn, would automatically require a new round of wage adjustments, and so the whole wage-price structure would spiral upward at an accelerated rate. The result would probably be a quicker end to the boom, since the rapid rise of wages and prices would undoubtedly alarm the monetary authorities who would be inclined to raise interest rates or utilize fiscal policy to curb the inflation.

Automatic cost-of-living adjustments and the other provisions above mentioned, which would reduce wage lag in the upswing, would, of course, also tend to reduce wage lag in the downswing if they were made applicable in such periods. However, unions take a dim view of any type of wage reduction, automatic or otherwise. Contracts may be "living documents" in an upswing, but the employer is likely to find union business agents adamant in insisting on contract rights when the employer suggests wage cuts in the middle of a contract term. Consequently, while there may be some development toward greater flexibility in wage clauses of union contracts which would tend to reduce the lag of wages behind prices in the upswing phase of future cycles, the lag of wages behind prices in the downswing is likely to be intensified by strong union organization.

EFFECT OF WAGE RIGIDITY IN THE DOWNSWING

If labor costs remain rigid in the face of falling demand for the product of industry, there will be a tendency for employers to curtail output and employment sharply. Wage rigidity, therefore, may result in a sharper reduction in output and employment than would otherwise be the case. On the other hand, as long as wage rates remain more or less stable, a brake is applied to the downward deflation in prices. Both employers and the public become conscious of the fact that prices cannot continue downward in view of the high level of labor costs and therefore think in terms of a higher level of prices in the future, rather than of further deflation. This tends to encourage revival in purchasing both by business and consumers. The difficulty, however, is that unions not only support the general wage level in times of recession but also support whatever maladjustments may have developed in the wage structure in the course of the preceding boom. If wages have risen disproportionately

in certain key industries, such as steel, automobiles, and the like, the continued maintenance of such wage rates in these industries in the face of falling demand may make it more difficult for recovery to get underway. On the whole, however, union pressure for maintenance of wage rates in periods of recession probably is a stabilizing factor which sets a floor under the deflationary spiral characteristic of depression periods.

In contrast to economic writings prior to 1929, which on the whole considered wage flexibility desirable over the cycle, there has been a marked tendency in recent economic writings to view wage rigidity as a factor contributing to economic stability. Some economists have concluded that while flexible wages may have tended to stabilize production and employment in an earlier and more generally competitive period of American industrial development, they would not exercise an equally salutary effect in our present economy which is characterized by "sticky" administered prices in a number of strategic areas. In such an economy, the stabilization of certain key prices, among them wage rates, may prove more effective in maintaining employment and production on an even keel.

The growing interest in rigid wages as a stabilizer has been accompanied by a lessening of confidence in the efficacy of the rate of interest. It is now recognized that although the upward instability of the price system can be checked by movements of the interest rate, the instability downward cannot be checked easily, if at all, by that means. In fact, some prominent economists have concluded that the only reliable check within the economic system is the rigidity of wage rates.⁸

Effect of Unions on Wage Dispersion

Union organization may exert a stabilizing influence on the business cycle, not only by making for greater rigidity in the general level of wages in the downturn but also by lessening the degree of dispersion in wage rates during a depression period. In past depressions, when union organization was less widespread, the earnings of unskilled workers fell relatively more than the earnings of skilled workers. Thus the spread or dispersion of wage rates—from the highest to the lowest—increased. This circumstance reduced the amount of income available to the low-paid workers who spend the highest percentage of their incomes. For example, between 1929 and 1931, there was some tendency for the lower quartile of men's earnings to fall by a greater percentage than the upper quartile. In the absence of any showing that the lower quartile of wage earners in each occupation had a higher rate of employment during the

⁸ See J. R. Hicks, *Value and Capital* (Oxford: Clarendon Press, 1939), p. 269.

depression as a result of the greater proportionate wage reductions, it appears that the larger reduction in hourly earnings in the lowest quartile tended to reduce disposable income most where the propensity to consume could be assumed to be highest.⁹

Union organization among poorer-paid workers tends to lessen this tendency toward increase in inequality of distribution of income in depression. Industrial unionism has spread the bargaining power of higher-paid strategically placed workers over employees who are less favorably situated. Moreover, industrial unions have a definite policy of narrowing differentials between the extremes on the wage scale. The automobile industry affords an interesting example of the extent to which industrial unionism has improved the bargaining position and income of the lowest-paid workers. In that industry, within a period of about 5 years after the United Automobile Workers obtained contracts with the leading companies, the rate differential between an unskilled sweeper and a highly skilled toolmaker was reduced from about 120 per cent to about 40 per cent.¹⁰ The improvement in bargaining position of poorly paid workers should counteract the tendency toward greater dispersion of wage rates observed in previous downturns and may tend to stabilize income and purchasing power where it is most needed.

WAGE POLICY AS A RECOVERY MEASURE

We have seen that there is some reason to believe that rigidity of wages in the downswing will lessen the severity of the ensuing depression. But once depression has set in, is wage policy an effective means to achieve recovery? The answer would seem to be no, if manipulation of wage rates to the exclusion of other devices is intended. The causes of depression are too complex, and the distortion of the cost-price structure too serious to render it possible for change in one cost factor alone to produce recovery. In most situations, therefore, wage policy must be combined with other measures if any substantial progress is to be achieved in raising the level of income, production, and employment.

The question still remains, however, what form such action in the field of wage policy should take, even if it is only a partial solution. Are general wage reductions desirable in depression, or should wages actually be raised to increase consumer purchasing power? The first question is

⁹ J. T. Dunlop, "Cyclical Variations in Wage Structure," *Review of Economic Statistics*, Vol. XXI (1939), p. 32.

¹⁰ A. M. Ross, "The Trade Union as a Wage-Fixing Institution," *American Economic Review*, Vol. XXXVII (1947), p. 577.

not entirely academic. Should a severe depression of the 1933 variety recur in the future, even strong union organization probably could not prevent some wage reductions. Moreover, the effect of a wage reduction may, to some extent, be duplicated in less obvious forms, such as by increasing prices relative to wages, or by a wage subsidy. Finally, it should be recognized that actual wage rates fluctuate more than published wage rates, since in periods of depression unions attempt to maintain the established rate in collective agreements, even though they may sanction individual bargains below it by union members.

WAGE REDUCTION IN DEPRESSION

Most theorists agree that it is the fluctuation in investment which is responsible for the oscillation in production and employment which we call the business cycle. Movements in investment expenditure usually lead movements in consumption and in general business activity. For example, the recovery of 1921 began with an increase in investment. Gross investment rose 1.8 billion from 1921 to 1922, while consumption expenditures were still falling.¹¹ In the recovery of the 1930's, investment started up first, rising 0.7 billion from 1932 to 1933, while consumption was still falling. In the downturn of 1929, there is some disagreement as to the relative movements of consumption and investment in point of time, but it is established that investment fell sharply from 1929 to 1930, while consumption fell only by a small amount.¹² Since it appears that changes in investment tend to lead changes in income, a revival in investment would seem to be the best way to speed recovery from depression. Can this result be achieved through wage reductions?

Favorable Effects of Wage Reductions

The volume of new investment is determined by the relation between the rate of interest and what has been called the marginal efficiency of capital.¹³ The marginal efficiency of capital is simply an index of the prospective profit rate on new investment, while the rate of interest is an index of the cost of obtaining capital for the purpose of investment. If the rate of interest falls or the marginal efficiency of capital rises, there is an inducement for businessmen to expand their investments. On the other

¹¹ A. Hansen, *Fiscal Policy and Business Cycles* (New York: W. W. Norton & Co., Inc., 1941), p. 49.

¹² J. Estey, *Business Cycles* (New York: Prentice-Hall, Inc., 1941), pp. 333-34.

¹³ See J. M. Keynes, *The General Theory of Employment, Interest and Money* (New York: Harcourt, Brace & Co., Inc., 1936), p. 135.

hand, if the rate of interest rises or the marginal efficiency of capital falls, there will be a tendency for investment to contract.

A reduction in wage rates may, under certain circumstances, reduce the rate of interest by diminishing the needs of business for cash. The reduction in wage rates would tend to reduce the price level, and businessmen would find that they needed less cash for making purchases and meeting payrolls. Balances would therefore build up in the banks. As a result of their increased liquidity, banks might reduce interest rates to encourage borrowing. A reduction in interest rates would, other things remaining equal, tend to stimulate investment.

There is also a possibility that a wage cut will raise the marginal efficiency of capital. For example, a substantial general wage reduction made with finality might be interpreted by management as a sign to go ahead on the theory that the bottom had now been reached and that henceforth the movement of both wages and prices would be upward. While such a wage reduction is difficult to achieve in our free labor market, other countries have had some success with such measures. In Australia, in 1931, wage levels were reduced 10 per cent by order of the Commonwealth Arbitration Board. This wage cut is generally credited with having contributed to Australia's recovery from the depression.

One reason that the wage reduction contributed to recovery in Australia is that Australia's economy is highly dependent on the prosperity of its export industries. A wage reduction may give an important competitive advantage to such industries and thus set the stage for a revival in business in key sectors of the economy. This may have been the case in 1921 in the United States when recovery seems to have been materially aided by wage and price reductions which brought our high wartime price structure into alignment with world levels.

As will be pointed out later in this discussion, wage reductions seem to intensify, rather than prevent, a downturn in business once the deflationary spiral is well underway. Wage reductions are probably most effective in stimulating investment if they can be made at the first sign of a recession, before businessmen have developed a strong feeling of caution and when reductions in cost are more likely to produce a prompt increase in spending by business concerns. A wage cut of modest proportions at such a time may also raise the marginal propensity to consume by reducing savings. This would be so if the wage reduction were reflected in a substantial lowering of the prices of consumer durable goods. Expenditures for durable consumer goods compete with savings. If automobiles, refrigerators, and other durable consumer goods have risen too high in price during the course of the boom, consumers may postpone purchases

until these articles come down to what they believe is a reasonable level of prices. A moderate wage cut at such times may make possible sufficient price reductions to induce potential purchasers to use savings to buy such items. Of course, against this favorable effect must be weighed the possibility that the reduction in income of wage earners may cause them to postpone further purchases of expensive durable goods.

Difficulties in Using Wage Reductions as Recovery Measure

For wage reductions to function as an effective recovery measure, two prime difficulties must be overcome: (1) the tendency of a wage cut to produce anticipations of a further fall in wages and prices; (2) the tendency of a wage reduction to contract effective demand.

In the absence of government intervention in the labor market, it is difficult to see how the first obstacle can be overcome. Perhaps if collective bargaining proceeds more and more on an industry-wide basis, ultimately associations of employers might be able to confer with the AFL-CIO and together agree to limit wage reductions in the key industries to a specific amount. It must be admitted, however, that at least in the near future, it seems doubtful whether most union leaders could make such an agreement and still retain the allegiance of their membership. Moreover, the divergent interests of employed and unemployed union members may come into sharp contrast over the question of the proper wage policy. For example, in the downturn of 1937, many unemployed members of the American Federation of Hosiery Workers were willing to accept a 6 per cent wage reduction proposed by employers, but the employed union members refused to do so.¹⁴

The second difficulty, however, can be met in a number of ways. Collective bargaining agreements might be phrased in terms of income rather than wage rates. During the depression, for example, in negotiations for a reduction of railroad wages, the railway unions attempted unsuccessfully to bargain for a partial maintenance of income.¹⁵ Contracts based on maintenance of income rather than wage rates would guarantee workers that their standard of living would not be impaired, and at the same time would afford employers the benefit of reduced costs. Thus, during the depression of 1933, it would have been to the advantage of the building trades to have agreed to a reduction in wage rates in return for a guarantee by the employer of a sufficient number of weeks of work to maintain, or to increase, their annual income.

¹⁴ *How Collective Bargaining Works* (New York: Twentieth Century Fund, Inc., 1942), p. 501.

¹⁵ S. H. Slichter, "The Adjustment to Instability," *American Economic Review*, Vol. XXVI (March, 1936), Supplement, p. 207.

Another more general plan by which costs can be reduced while demand is maintained is by combining wage reductions with an effective program of public works financed through a budgetary deficit. The public works program, however, must not be managed in such a way as to nullify the purpose of the wage reduction—which is to achieve a reduction in costs. In 1933, wages paid on public projects exceeded rates on private work with the result that labor costs in construction were maintained at an arbitrarily high level. A third possibility would be to grant wage subsidies to private industry. The effect of such subsidies is to reduce wage costs by the amount of the subsidy and at the same time to increase effective demand by the extent to which the subsidies are financed through borrowing.

Unfavorable Effects of Wage Reductions

We have seen that a wage reduction may promote recovery by leading to a lowering of the interest rate. Opponents of wage reductions argue that in times of depression this reaction is of little value. At such times, interest rates are generally low anyhow. The real problem is to raise the anticipated profit rate, and except in unusual cases where it can definitely be determined that the wage reduction is final, the lowering of wage rates is unlikely to have a favorable effect upon investment. Moreover, if it is desired to reduce interest rates, this can be done directly and more simply through fiscal policy or control of the money market by the Federal Reserve System without creating the hardship and maladjustments which frequently result from wage reductions.

In many business downturns, wage reductions will serve only to deepen business pessimism and intensify the downward spiral in income, employment, and prices. Since the immediate effect of a wage reduction is likely to be a decline in wage payments and consumer expenditures, there must be an immediate compensatory increase in spending by businessmen on inventories or capital goods to prevent a shrinkage in total purchasing power. In periods of depression, however, businessmen typically are in a cautious mood and are unlikely to rush into new investments merely because of a wage reduction. Any savings effected by reason of the reduction in labor cost may simply be used to pay off debts or to build up bank balances. Therefore, it is quite likely that the volume of business spending will not revive promptly enough, and, as a result, wage reductions will produce an actual contraction in purchasing power.

On the whole, *general* wage reductions do not hold forth much promise as a recovery measure. The key factor which must be reached is the rate of new investment, and wage reductions, by and large, are a

clumsy means of stimulating this variable. Revival of investment in a depression period is rendered difficult by the large amount of excess capacity and surplus stocks which exist at such times. Until these are eliminated—by obsolescence or gradual depletion—it is difficult for a purely internal change, such as a wage reduction, to start the economic system moving again. A steel manufacturer is not likely to build a new plant at the bottom of the depression merely because wage rates have been reduced. Lower wage rates and lower interest rates may make conditions more conducive to recovery when a favorable external factor—such as a good crop or a new invention—impinges upon the economy and raises profit expectations. But of themselves, these measures are relatively ineffective to promote recovery.

WAGE INCREASES IN DEPRESSION

The argument for wage increases as a recovery measure embodies the same analytical approach as that which has been used to attack the alleged benefits flowing from general wage reductions. The crux of the argument in both cases is that we must look to the economy as a whole and not to the individual firm in order to appraise the efficacy of the wage change in promoting employment.

Favorable Effects of Wage Increases

An increase in wage rates in one firm will not ordinarily provide a basis for more jobs, since the rise in wage rates simply increases costs without measurably altering the demand for the output of this particular employer. But when wage rates are increased generally throughout the economy, the effect of these increased disbursements upon general consumer demand cannot be ignored. If there are no leakages, and if the banking system expands the quantity of money sufficiently to maintain a higher level of prices without a rise in interest rates, then the rise in wage cost need not reduce employment and may even increase it if the rise in wages and prices is taken as an indication of the end of the deflationary downturn.

In a depression period, the existence of unused plant and equipment and the widespread operation of industry at less than optimum capacity may make possible a rise in money wages and employment with a less than proportionate increase in prices. This consideration was one of the motivating factors in the NRA program of 1933, which sought to achieve recovery by expanding wage earners' buying power. The NRA recovery program achieved a small increase in real wages from June, 1933, to

June, 1935; the index of weekly industrial earnings rose from 70 to 80, while the cost of living rose from 96 to 107.5. Real wages thus rose from 72.9 to 74.3.¹⁶

Difficulties in Using Wage Increases as Recovery Measure

Wage increases will not significantly enlarge consumption expenditures if the employed workers who receive wage adjustments simply save the additional income or use it to pay off indebtedness to banks. Moreover, even if the wage increases increase consumption, they may merely improve the short-term outlook for business without affecting the views of the business community concerning the profitability of long-term investment in heavy plant and equipment. Because wage increases tend to affect short-term rather than long-term expectations, any favorable reaction upon business expenditures is likely to be reflected in increased inventory accumulation¹⁷ rather than in the purchase of fixed plant and equipment. Consequently, a recovery movement which is generated by increased wages is likely to be extremely susceptible to speculative influences. One reason that the speculative collapse of 1937 produced such a sharp curtailment in production and employment is the fact that long-term confidence had remained weak throughout the abortive boom, as evidenced by the tendency of businessmen to confine their buying of industrial equipment to replacement demands.

On the whole, relatively few economic theorists favor wage increases as a device to achieve recovery in depression. An exception is the school of underconsumptionists who see in depression the cumulative effect of oversaving; in their view, wage increases are essential to eliminate the prime cause of the collapse of business, namely, the deficiency in consumer purchasing power. However, even granting their argument that it is desirable—and even necessary—to raise *consumption* during depression, this, in itself, is not enough to assure recovery. It is the propensity to *spend*, not alone the propensity to *consume*, that is the crucial factor in the cyclical process. Spending must be stimulated by *all* groups in the community—by employers as well as by consumers. If every increase in expenditure by consumers were accompanied by a decrease in expenditure by employers, it is clear that no stimulus to business recovery would be imparted by wage increases.

¹⁶ C. F. Roos, *NRA Economic Planning*, Cowles Commission Monograph No. 2 (Bloomington, Ind.: The Principia Press, 1937), p. 444.

¹⁷ This suggests the possibility that in a unionized economy cycles in inventory accumulation may become of increased importance, thus giving more substance to the purely monetary theory of the cycle advanced by R. G. Hawtrey in *Good and Bad Trade* (London: Constable & Co., 1913).

Unfavorable Effects of Wage Increases

A high level of consumer expenditures is essential for a healthy economy, but so is business spending. Any policy which gives sole attention to the one without sufficient regard to the other is likely to fail in its objective. Those who assert that employment will be increased by a rise in wage rates are in effect assuming that consumption will expand as a result of the increase in wage rates, but that investment will not be adversely affected despite the rise in costs. There is certainly no necessity that this be so. Indeed, in times of depression, it is possible that the reaction of investment to the rise in wage costs will be immediate and adverse, whereas the increase in consumption by wage earners may be slow in coming. In times of depression, consumption tends to be maintained by government subsidies, unemployment insurance, relief, and similar payments. With widespread unemployment prevalent, the fortunate employed workers who find extra dollars in their pay envelopes may well consider it prudent to lay these aside in case they, too, are dismissed. On the other hand, employers feel the increase in costs immediately, and with profits low or nonexistent it is questionable whether they will continue to operate long at an uneconomic output. To place recovery on a substantial basis, it is investment in fixed plant and equipment which must be stimulated. Wage increases may, of course, induce management to invest depreciation allowances in equipment which is more labor-saving, but it is doubtful whether, during a period when long-term expectations are at a low level, higher wages produce any substantial expansion in investment based on the interest of management in displacing labor.

Furthermore, in an economy which depends in part upon exporting to other countries, a general increase in labor costs at a time when other nations are undergoing the painful process of deflation may have a detrimental effect on employment in export industries. In our highly inter-related modern world, depressions tend to be world-wide, and recovery measures in one country must take account of conditions in other countries. If wages and prices are raised in this country at the same time as consumers in foreign countries find their incomes diminished and prices in their own countries reduced, our export industries will be less able to compete in foreign markets. The depressed condition of these industries will therefore be aggravated by the wage increase. Furthermore, in the absence of a concomitant increase in tariffs, our imports will be stimulated because domestic consumers will find that many articles can now be purchased cheaper abroad than at home. This may produce an unfavorable balance of payments and an outflow of gold which may em-

barrass the central banking system and cause a tightening in the money supply at the very time when credit restrictions should be relaxed.

APPRAISAL OF WAGE POLICY AS RECOVERY MEASURE

This discussion serves to indicate that no unqualified conclusions can be drawn regarding the type of wage policy which should be adopted in depression. In a mild depression, a reduction in wage rates, if accompanied by a fall in the prices of producers' goods, may shorten the period of adjustment, particularly if long-term expectations have remained at a relatively high level despite the temporary business relapse. If, however, the depression is of the 1930-33 variety, where the power of long-run dynamic forces is low and the demand for capital goods is highly inelastic, then a reduction in wage rates may only further contract purchasing power without contributing to the recovery of employment and production.

Thus the efficacy of wage policy as a recovery measure depends upon the nature of the particular depression in which its use is sought. That the same wage policy cannot uniformly be applied in every business downturn is not surprising; for each depression is in an important sense a unique event. In many depressions, wage alterations are simply not adapted to reach the fundamental source of maladjustment. In 1929, for example, wage reductions could not halt the deflation due to bank failures, nor could they raise the depressed level of long-term expectations. On the other hand, in 1920-21, wage reductions did contribute to recovery because the high wages left over from the war inflation were *themselves* a cause of the ensuing depression.

The fact that there is no certainty that employment will be increased if wage rates are reduced or increased in periods of business recession strengthens the case for wage rigidity. Maintenance of wages may be the best way to maintain consumption expenditures. It is important to maintain consumption during depression because experience has demonstrated that new investment is not likely to revive until inventories have been used up, and this process of depletion takes time. In the 3 years, 1933-35, it is estimated that business inventories declined nearly \$4 billion¹⁸ (measured in 1929 prices). This represents a considerable disinvestment and indicates the large amount of slack which needs to be taken up before investment is likely to resume. During the intervening period of adjustment, maintenance of wages is desirable to prevent cumu-

¹⁸ S. Kuznets, *National Income and Capital Formation, 1919-1935* (New York: National Bureau of Economic Research, Inc., 1937), p. 40.

lative contraction. The policy of maintaining wages during depression which was adopted by Sweden in the early 1930's enabled that country to make a quick recovery from the depression. Wages fell less than 5 per cent in Sweden in the worst year of the depression.¹⁹ On the other hand, no country made such drastic cuts in wages and other costs from 1930 to 1933 as the United States, yet no country suffered more intensely from that depression. In the United States, total payrolls in manufacturing, mining, and steam railroads fell by over half from 1929 to 1932.²⁰

The severe wage deflation of the great depression is not likely to be repeated in the future unless the pattern of our industrial relations undergoes a sharp reversal. Unions characteristically think of wages as income, rather than as a cost, and consequently have little sympathy for proposals that wages be rendered "flexible" to assist recovery from depression. The experience of the recession in 1938 suggests that the wage rigidity produced by such union attitudes may produce a cyclical pattern characterized by an extremely sharp fall in production and employment as declining demand impinges upon rigid wage costs. On the other hand, if consumer income is maintained by social security, relief, and supplementary unemployment benefit²¹ payments, a fairly rapid recovery can be achieved since the relative stability of costs and prices attributable to maintenance of wage rates prevents the strengthening of deflationary forces.

CYCLICAL EFFECT OF NONWAGE ASPECTS OF UNION ORGANIZATION

The full impact of unions upon the business cycle cannot be ascertained simply by adding a little more wage pressure to conventional analyses of the role of wages in the business cycle. Union policy is more than wage policy. Unions affect the mobility of labor, the efficiency of labor, attitudes toward technological change, work sharing, and other aspects of the employment relationship. How will these nonwage aspects of union policy affect the nature of the business cycle?

MOBILITY OF LABOR AND CYCLICAL INSTABILITY

Union organization probably reduces the mobility of labor. For example, provisions in collective bargaining agreements basing layoffs on

¹⁹ A Montgomery, *How Sweden Overcame the Depression, 1930-1933*, trans. L. B. Eyre (Stockholm: Alb. Bonniers Boktryckeri, 1938), p. 52.

²⁰ *Monthly Labor Review*, Vol. LI (1940), p. 538.

²¹ See Chapter 20 for a discussion of the cyclical effect of supplementary unemployment benefit plans.

seniority tend to tie workers with long service to their present jobs. Other benefits which unions have achieved in recent years, such as pensions, have a similar effect. To the extent that the mobility of labor is reduced, the cyclical instability of the economy is increased. An increase in the demand for labor tends to be converted into higher wages and higher prices more readily when mobility of labor is low than when it is high.

As a revival in business commences after depression lows, the demand for labor increases over the whole economy. Certain industries and firms, however, lead in the recovery, and they are not always located in the areas where the largest pools of unemployed labor exist. These firms have to raise wage rates to attract additional manpower, and in a unionized economy they may have to raise wage rates more than in a nonunion economy simply because the widespread incorporation of seniority provisions in union contracts ties men to their jobs and makes them reluctant to move to a less secure position elsewhere, even if the compensation offered is higher than what they are currently receiving. As the boom wears on, the shortage of labor is rendered more acute by the lack of mobility between labor-surplus and labor-shortage areas with the result that the inflationary spiral is intensified. This may bring a quicker end to the boom than would be true in a nonunion economy and also may make more difficult the ultimate adjustment of wages and prices which is required to revive business after a recession.

CYCLICAL VARIATION IN THE EFFICIENCY OF LABOR

Unions may affect the business cycle not only through wage policy but also through their effect upon labor efficiency. Employers are concerned with labor as a cost of production, but labor cost is not a simple function of wage rates. Labor cost per unit of product is the resultant of three factors: (1) the wage rate; (2) the efficiency of labor; (3) the volume of production. These factors are not entirely independent, for as will appear in the following discussion, volume has an important influence on the level of labor efficiency. Nevertheless, the interaction of these three factors ultimately determines the trend of labor costs over the business cycle.

The cyclical behavior of labor costs has important repercussions upon the profitability of investment and upon the general level of prices. If periods of decreasing labor efficiency were correlated with periods of increasing wage rates, then the cyclical fluctuation of labor costs would be exaggerated. On the other hand, if labor efficiency bore a positive relation to changes in the wage level, then labor costs would be rendered

more stable over the cycle. The behavior of labor efficiency, therefore, is an important determinant of the extent to which wage changes will be reflected in alterations in costs and prices.

The actual variation of labor efficiency over the cycle is a matter of some controversy. Although statistics are available for "labor productivity," these figures do not really represent the effect of changing labor efficiency but rather of the combined effectiveness of labor and capital. Therefore, analysis in this field must largely rely upon deductive reasoning, buttressed where possible by empirical data.

Labor Efficiency and Labor Effort

If by labor efficiency we mean labor effort, then there is reason to believe that in the absence of strong union organization, employee efficiency tends to increase as the lines of unemployed lengthen. It is human nature for the employed worker to value his job more highly—and therefore to apply himself to his work more conscientiously—when there are ten other men seeking it than at a time when he can quit and get another position without difficulty. Most employers would agree that worker effort showed a marked decrease during the war years when labor was scarce, with some tendency in the opposite direction in the period since the end of the war. Not only does individual employee diligence diminish in periods of labor scarcity but also the high labor turnover and the employment of marginal persons during such periods tends to reduce the average efficiency of the work force taken as a whole.

However, the problem of labor efficiency is complex, and there are important considerations operating in the opposite direction. For example, no study of labor efficiency and motivation can ignore the so-called "lump of labor" theory, which is deeply ingrained in labor thinking. In times of slack employment, laborers tend to draw out their jobs to make them last as long as possible, on the theory that there is just so much work to go around, and when that is exhausted, their jobs may be at an end. This attitude, of course, overlooks the fact that job tenure ultimately depends upon the margin between costs and prices, and delaying tactics may so narrow this margin as to make it impossible for an employer to compete. Nevertheless, employees frequently act in terms of this theory, and therefore it is a factor which may make for reduced labor efficiency in times of depression.

On the whole, it seems likely that in a nonunion economy the first tendency—toward increased efficiency in depression—would dominate, since employees bargain individually for their jobs and therefore reason that individual effort may make the difference between retention on the

payroll and dismissal. In a unionized economy, however, the force of the first tendency is considerably diminished by the security which collective bargaining provides, while at the same time, the very existence of a union may give explicit form to the "lump of labor" dogma. A strong union faced by growing unemployment among its membership often reacts by limiting the size of a man's daily or hourly output, and by imposing various make-work regulations designed to make the job last as long as possible. Moreover, since unions frequently specify that seniority must be observed in making layoffs, the pressure on the individual employee to increase output in order to retain his job is removed, and he becomes more receptive to the attractive notion of drawing out his job. As a consequence, strong unionism may alter what has been the characteristic behavior of labor efficiency over the cycle, so that efficiency will show no tendency to rise in depression and may even deteriorate through the multiplication of union rules. However, in severe depression, the union itself is likely to be so weakened that it will be unable to enforce such burdensome regulations against employers.

Changes in Man-Hour Output

Thus far we have considered labor efficiency as it is affected by worker effort. But in many industries—particularly those which are highly mechanized—the speed of work is geared to the speed of the line, leaving little room for individual variation. In such industries, the volume of output becomes a major determinant of the level of labor costs.

If efficiency of labor is measured in terms of man-hour output—which is a composite of the varying efficiency of labor and capital—then there is an indication of a marked decline of efficiency in depression periods. For example, the Chief Economist of the U.S. Bureau of Labor Statistics, testifying before the Temporary National Economic Committee, called attention to the decline in labor productivity in all manufacturing industries which occurred from 1931 to 1932, and stated:

There were certain lines of manufacturing, notably in the heavy industries, in which productivity went down very sharply and will go down very sharply every time the volume of physical production declines. One of the characteristics of a depression is the tendency of the output per worker to go down, which in large measure may offset the benefits of reduced labor costs that people seek to achieve through wage reductions in a period of depression. . . .²²

The reason for this variation in productivity is primarily technologi-

²² *Hearings before the Temporary National Economic Committee on Technology and Concentration of Economic Power* (Washington, D.C., 1940), Part XXX, p. 16229.

cal. It does not depend upon the worker's effort so much as upon the volume of production. In highly mechanized industries, for considerable ranges of output, labor becomes a fixed cost. Whether a machine produces 10 units or 100 units of a product, it may still need the same amount of labor to operate it. Hence decreases in output become decreases in product per man-hour. Or, looked at another way, increases in output spread labor cost over a large number of units of product. For example, in steel production, 35 per cent more hours of manufacturing labor and 14 per cent more hours of administrative labor are required to manufacture a gross ton of finished steel products at 20–25 per cent of capacity than at 55–60 per cent of capacity.²³ In many industries—steel, glass, cereals, baked goods, etc.—where indivisible units such as ovens, furnaces, and kilns must be added as production expands, decreases in output below optimum capacity ordinarily occasion a loss in labor efficiency, since the labor force cannot be curtailed proportionately as output falls.

The importance of the technological factor in labor efficiency appears to vary directly with the severity of the depression and hence with the decline in output which results. As regards a minor recession, statistics suggest that there is no substantial difference between the movement of labor productivity in depression or prosperity. Thus, man-hour output rose at approximately the same rate in 1919–20 as in the depression phase of 1921–22.²⁴

Obviously unions can have little effect upon the technological factor in changing labor efficiency. However, in so far as the human element is important, the above analysis suggests that union security and union make-work rules may produce some reduction in labor efficiency in times of slack employment. This tendency plus the decrease in man-hour output which occurs in some industries when output is curtailed would deprive wage reductions of a large part of their efficacy in reducing labor costs in depression.

UNIONS AND WORK SHARING IN DEPRESSION

Another possible way in which unions may affect the course of the business cycle is by encouraging work-sharing plans among union members and thus indirectly affecting the marginal propensity to consume. While there has been a growing preference among unions for seniority provisions with regard to layoffs, we noted in Chapter 6 that a number of

²³ *Monthly Labor Review*, Vol. XL (1935), pp. 1155–61.

²⁴ A. Hansen, *Economic Policy and Full Employment* (New York: McGraw-Hill Book Co., Inc., 1947), p. 155.

unions have followed the plan of equal division of work. The needle-trade unions, the boot and shoe workers, the textile workers, and the brewery workers rely mainly on this policy.

Whether union organization produces a greater amount of work sharing than would exist in a free market can hardly be proved, but there is some reason for believing this to be so. If employers are free to dismiss men according to their own choice, they are likely to select the least efficient and least competent men for dismissal, retaining the core of their best workers. Thus periods of depression would concentrate unemployment on a small number of men. This method of allocating jobs in time of depression probably involves more social damage than any other, since the skills of these men are likely to be lost through long periods of inactivity.

Unions, however, frequently view unemployment as a group problem which is to be shared by all union members, rather than borne by particular members simply because they happen to be less fortunately endowed than other employees. Work sharing, by giving a larger number of employees an opportunity to utilize their skills, tends to preserve workers' morale and ability during depression, and therefore, on the whole, would seem to be socially desirable.

If unions do, on balance, encourage work sharing, how is this likely to affect the cycle? The effects are likely to be of mixed nature. On the one hand, institution of work sharing in depression will give jobs to some persons who have been or would be living off their relatives and gifts from friends. Persons in such circumstances are likely to restrict their consumption, and hence giving them work may induce them to expand their consumption. If earnings among the previously fully employed workers have been high, work sharing with consequent reductions in income per person will probably increase the marginal propensity to consume.

The effects of work sharing, however, are complicated by the existence of government relief. If work sharing is not resorted to, some workers will be unemployed and will be supported by government relief. Assuming that these are net expenditures, financed by government borrowing that would not have been undertaken otherwise, they would tend to have a stimulating effect in times of general deflation. Work sharing may thus reduce government deficit expenditures which to some theorists would be an unfavorable tendency. On the other hand, it can be argued that, even assuming deficit financing, the specter of a large volume of unemployment may lead workers with jobs to restrict their consumption and attempt to save in case they are laid off. Moreover, a large and mount-

ing government debt may have a discouraging effect upon the inducement to invest.

UNION CONTROL OF THE RATE OF TECHNOLOGICAL PROGRESS

Industry tends to invest in spurts, which has the effect of concentrating technological changes in a short period of time. If industry could be encouraged to spread investment more evenly over time, the problem of technological unemployment would be considerably alleviated and the cyclical fluctuation in income and employment which results from irregular investment would be lessened. Can unions achieve this result by their control of the rate of technological change?

Unions are not unmindful of this possibility, and, indeed, one of the major purposes motivating organized labor's promotion of the dismissal wage is the hope that it will encourage industry to adopt a more orderly plan of mechanization. However, the dismissal wage, although designed to lessen fluctuations in employment, may actually accentuate them. Requirement of paying dismissal wages to displaced workers might not operate as much of a deterrent to investment in laborsaving machinery in prosperous times when jobs can readily be found for workers elsewhere in the plant; but in depression the additional cost of paying dismissal wages to displaced workers would make new laborsaving processes so expensive to undertake that the little investment remaining in these times would be discouraged. Thus the net effect of union regulations controlling layoffs and requiring payments of dismissal wages may be to discourage investment when it is needed most and to postpone it until times when capital outlays are already high. Consequently, the cyclical instability in investment expenditures will be augmented.

However, unions may have greater success in evening out fluctuations in investment by active control of the rate of technological change. The various means adopted by individual unions to meet the problem of new machinery which threatens displacement of labor were discussed previously in Chapter 6. It is possible that management will be compelled by such measures to introduce improvements more gradually in periods of prosperity when the union's bargaining power is strong. Such an entrepreneurial reaction would tend to diminish the excesses of the boom and to lengthen the prosperity phase of the cycle. On the other hand, management may be encouraged to delay introduction of laborsaving improvements until depression when the resistance of the union may be weakened. Employers in the women's garment industry, for example,

greatly extended use of pressing machines when the union was weakened during the depression. Such a policy is hardly to be condoned, yet to the extent that it augments the volume of capital expenditure in depression, it lessens the deflation of the period and sets the stage for an earlier resumption of business activity.

There is, however, the basic difficulty that the improvements which require the greatest outlay of capital funds and which consequently are most responsible for creating fluctuations in the rate of investment and employment are generally of such high laborsaving capacity that organized labor is practically powerless to deal with them. This, for example, was the situation which faced the United Steelworkers when the continuous automatic strip mills were introduced in the steel industry. Nevertheless, the efforts of organized labor to regulate the rate of introduction of machinery may be successful in producing a more orderly application of many minor improvements in technique which in toto constitute a substantial portion of investment expenditure over the cycle.

QUESTIONS FOR DISCUSSION

1. Discuss some of the effects which union organization may have upon the course of the business cycle. What is the significance of wage lag, and how do union contracts affect it?
2. Under what circumstances are wage reductions likely to be helpful in stimulating recovery from depression?
3. "Under favorable circumstances, wage increases made at the bottom of the depression may result in an increase in employment." Is this view inconsistent with the marginal-productivity theory? Discuss.

SUGGESTIONS FOR FURTHER READING

BRATT, ELMER C. *Business Cycles and Forecasting*. Homewood, Ill.: Richard D. Irwin, Inc., 1953.

A detailed analysis of the various types of cycles, their causes and measurement, and proposals for stabilization.

MOORE, G. H. "Business Cycles and the Labor Market," *Monthly Labor Review*, Vol. LXXVIII (March, 1955), pp. 288-92.

A study of the movement of earnings, hours, layoffs, and employment in the recessions of 1948-49 and 1953-54.

POOL, A. G. *Wage Policy in Relation to Industrial Fluctuations*, chaps. iii and iv, pp. 71-151. London: Macmillan & Co., Ltd., 1938.

A theoretical discussion of the effect of changes in wage rates on the course of the business cycle in periods of boom and depression.

Chapter 15

LABOR PRODUCTIVITY AND THE ANNUAL IMPROVEMENT FACTOR

The standard of living of the American worker today is the highest in the world. He has reached this enviable position through continuous gains in real income over the years. Table 20 shows the index

TABLE 20
INDEX OF REAL AND MONEY WAGES, 1820-1953
(1914 = 100)

Year	Index of Money Average Hourly Earnings	Index of Real Average Hourly Earnings	Year	Index of Money Average Hourly Earnings	Index of Real Average Hourly Earnings
1820....	35	41	1910 .	92	100
1830....	36	51	1920. .	242	128
1840....	40	51	1925 .	245	140
1850....	42	59	1930..	248	149
1860....	46	57	1935...	247	181
1870....	82	71	1940...	296	212
1880..	65	77	1945...	459	257
1890....	73	96	1946...	486	251
1900....	76	101	1953...	757	285

SOURCES. Years 1820-1946 compiled by John T. Dunlop from data of U S Bureau of Labor Statistics and A. H. Hansen, *American Economic Review*, Vol. XV (1925), pp 27-42, year 1953 based on data cited in unpublished paper presented by Leo Wolman at December, 1953, meeting of American Economic Association. Data for 1953 are not wholly comparable with data for earlier years, since 1953 figures are based on manufacturing industries only.

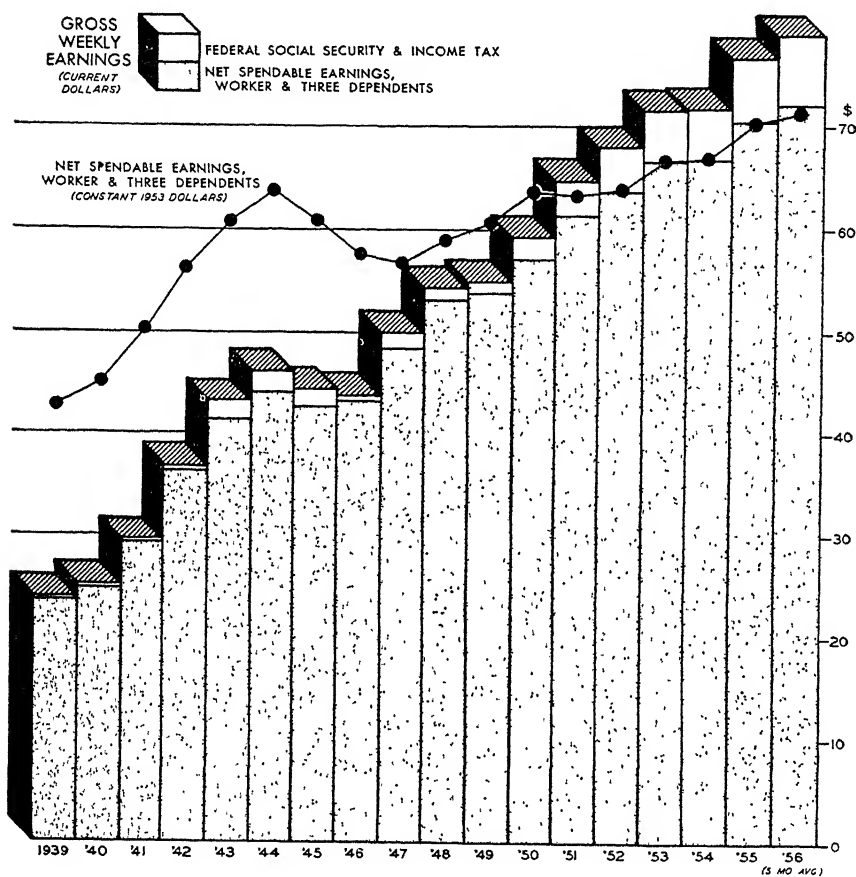
of real and money average hourly earnings for selected years, 1820-1953. The dramatic increase in the standard of living of American workers is clearly indicated by the third column, which shows the index of real average hourly earnings or, in other words, the index of money average hourly earnings corrected by the index of the cost of living. Since 1820 the index of real average hourly earnings has increased sevenfold, and in 1953 it stood at 2.8 times the figure for 1914.

Real spendable weekly earnings—that is, gross money income less federal income taxes and social security deductions—have also risen

sharply since the pre-World War II period. (See Fig. 24.) It is evident from the foregoing statistics that despite the upward trend in prices in the last two decades, labor has been able to push up money wages at an even faster rate so that its real earnings have substantially improved. Real hourly earnings will undoubtedly continue to rise in the future. The gloomy prophets of socialism who prophesied an ever-shrinking standard

FIGURE 24

WEEKLY EARNINGS, PRODUCTION WORKERS—MANUFACTURING, 1939-56



Real spendable weekly earnings for a worker with three dependents have increased about 66% since 1939. These earnings represent gross income less federal income taxes and social security deductions, and have been adjusted to reflect consumer price changes during the period. The average family of four had a weekly spendable wage of over \$71 in the first five months of 1956, compared with about \$43 in 1939.

SOURCES: Bureau of Labor Statistics; National Industrial Conference Board, Inc. Copyright, 1956, by The Conference Board, 460 Park Avenue, New York 22, N.Y. Reprinted from *Road Maps of Industry*, No 1076 (August 10, 1956).

FIGURE 24—Continued

Year	Annual Average			
	Gross Weekly Earnings	Net Spendable	N.I.C.B.	Real
		Earnings	Consumer	Net Spendable
		Worker and 3 Dependents	Price Index (1953=100)	Worker and 3 Dependents
	Current Dollars			Constant 1953 Dollars
1939.....	23.86	23.62	55.0	42.95
1940.....	25.20	24.95	55.4	45.04
1941.....	29.58	29.28	58.3	50.22
1942.....	36.65	36.28	64.5	56.25
1943.....	43.14	41.39	68.2	60.69
1944.....	46.08	44.06	69.1	63.76
1945.....	44.39	42.74	70.2	60.88
1946.....	43.82	43.20	74.9	57.68
1947.....	49.97	48.24	84.7	56.95
1948.....	54.14	53.17	90.1	59.01
1949.....	54.92	53.83	88.8	60.62
1950.....	59.33	57.21	90.0	63.57
1951.....	64.71	61.28	97.0	63.18
1952.....	67.97	63.62	99.5	63.94
1953.....	71.69	66.58	100.0	66.58
1954.....	71.86	66.78	100.2	66.65
1955.....	76.52	70.45	100.3	70.24
1956 (5 months).....	78.58	72.09	101.1	71.31

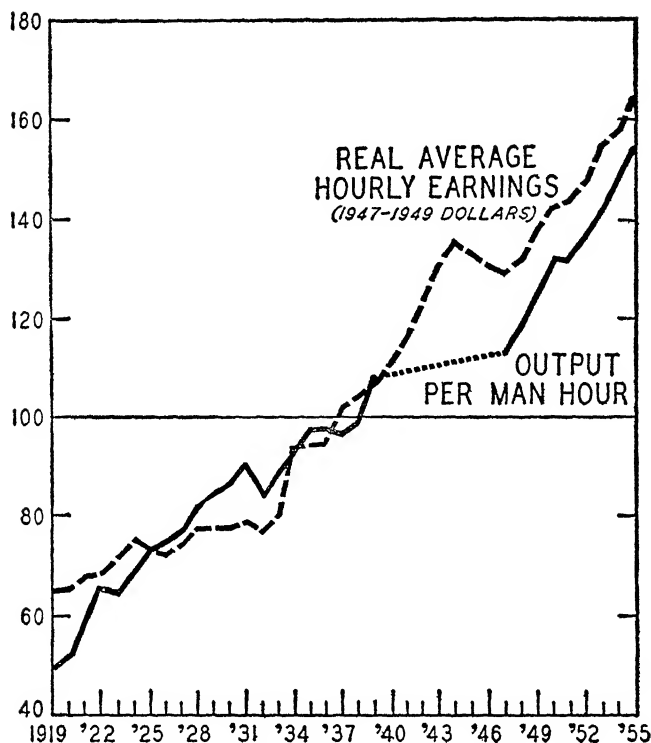
Note: Gross earnings include overtime pay, shift differentials, holiday, vacation and sick pay, regular production bonuses, etc., in addition to straight-time pay. Real net spendable earnings are obtained by deducting from gross earnings the federal social security and income taxes for which a worker with three dependents is liable and dividing by the Consumer Price Index.

of living for the working class were clearly unaware of the industrial and economic advances which lay ahead of their little nineteenth-century world.

The steady improvement in real earnings received by our working population has eased social tensions in this country and has created an atmosphere in which labor has been willing to be a partner in the capitalistic system of production. If technological progress had been less rapid in this country so that there was little or no prospect held out to the average worker that his standard of living would improve over the years, American workers might not have remained satisfied with business unionism and might have been led to emulate British and European workers who have sought to improve their lot through state socialism, communism, or syndicalism.

FIGURE 25

REAL WAGES AND OUTPUT PER MAN-HOUR



Manufacturing industries, index numbers: 1935-39=100

SOURCES: Bureau of Labor Statistics, Federal Reserve Board, National Industrial Conference Board.

The continuous increase in real earnings of American labor has been made possible by the steady improvement in productivity of labor, which is usually reported in terms of "output per man-hour." Because of the close relationship between the two series, real average hourly earnings and output per man-hour tend to have roughly parallel trends over time. (See Fig. 25.) As we shall see in the subsequent discussion, the increase in man-hour output which has marked our economic development is actually the result of a multitude of factors. Of major importance, however, has been invention and improvement in technique. The average worker is better off today than his counterpart in 1900, primarily because of the increased efficiency of machine technology. In this chapter we shall consider what labor productivity means and how it comes about. We shall also weigh the pros and cons of alternative methods of distributing the gains of increased productivity which result from technological progress. Finally we shall examine the merits and shortcomings of the so-called

“annual improvement factor” for labor which is playing an increasingly important role in union thinking and has already been incorporated in collective bargaining agreements covering several million workers.

NATURE OF INCREASED PRODUCTIVITY

Statistics are frequently cited of increases in “productivity of labor.” This presentation tends to create the impression that in some way labor is responsible for the increased output and so is entitled to a lion’s share of the gains deriving from increased productivity. Actually, productivity could just as easily be stated in terms of any other factor used in production, such as dollar of capital invested. Productivity is simply a ratio between output measured in specific units and any input factor, also measured in specific units. For example, most drivers are concerned with the number of miles per gallon they get from their automobiles. This is a simple illustration of output—in this case mileage—measured in terms of specific input—in this case gasoline. The same output could be measured in terms of input of tires, or battery, or of any of the many materials and factors which jointly are responsible for the final output of pleasurable driving.

Aggregate output in our economy is the result of the joint productive efforts of many groups—of management, of the persons who contribute capital, and of workers. As a matter of convenience, however, it has become customary to measure changes in total output in terms of changes in the number of man-hours utilized in its production. The resultant figure of output per man-hour is used as an index of productivity in our economy. The figure is, of course, only approximate. It is apparent that total output in a complex economy such as ours is not easily measured. The statistics themselves are inadequate, and the conceptual problems of measurement are substantial. While estimates of the annual rise in man-hour output differ, the figure usually cited is between 2 and 3 per cent per year. Figure 25 shows graphically the sharp upward trend in man-hour output from 1919 to 1955.

Factors Affecting Productivity

Contrary to popular conception, productivity does not depend primarily on human effort. In fact, human effort is relatively insignificant in the total productivity picture. The main reason for increased productivity is the increased efficiency of machine technology. Not only is the machinery which a worker uses today far more efficient than the machinery in use 50 or 100 years ago but also the amount of capital used

per worker has increased tremendously over the years. Capital per worker in manufacturing rose from \$557 per worker in 1850¹ to nearly \$14,000 in 1956.² At the same time, there has been a prodigious expansion in the input and effective use of electrical energy.

Changes in man-hour output depend largely on changes in productivity of individual establishments. They also reflect, however, shifts in the relative proportion of output produced in plants at different levels of efficiency, on shifts in the relative importance of industries, and on changes in the amount of materials, including component parts and purchased services used. For example, the shift from agriculture to manufacturing, where "value added" per man-hour is high, has tended to raise the level of national productivity as measured by statistical series, quite apart from the real gains in manufacturing productivity itself. Similarly, within the manufacturing group, the shift of employment to durable goods manufacture has represented a shift of both employment and output toward industries of higher-than-average productivity.³

From the short-run point of view, year-to-year changes in productivity statistics may be attributable to a variety of factors, some of which are nonrecurrent and arise outside the productive apparatus itself. For example, output per man-hour will reflect the influence of such factors as weather, taxes, soil conditions, policies of government with respect to competition and monopoly, and related circumstances.

In the short run, productivity may also be affected by the intensity of labor utilization. Some economists have distinguished between what they call "volume productivity" and "real productivity." The former is simply a consequence of the law of fixed costs. As output increases, unit costs decrease within certain limits, but when output diminishes, unit costs will rise again. Thus, the increased "efficiency" accompanying the larger output is temporary. There has been no permanent change in the productivity of labor. The latter type of productivity, however, refers to a basic and permanent change in the volume of output which can be obtained by use of a given amount of labor. Changes in "real productivity" are primarily attributable to invention and to changes in the organization of the factors of production. Unlike volume productivity, improvement in real productivity may actually be greatest in times of business recession when output is falling. While in theory it is possible to distinguish between

¹ W. I. King, *The Keys to Prosperity* (New York: Constitution and Free Enterprise Foundation Publishers, 1948), p. 78.

² National Industrial Conference Board, Inc., *Business Record*, November, 1956, p. 478.

³ National Industrial Conference Board, Inc., *Business Record*, June, 1956, p. 204.

real productivity and volume productivity, in practice, statistics showing changes in man-hour output will reflect a mixture of the two.

Variations in Productivity

Because of the multitude of diverse factors which affect the growth of man-hour output, the historical trend of real output per man-hour is irregular. Table 21 shows how the percentage growth in man-hour output has varied at different periods in our economic growth. The sharp

TABLE 21
AVERAGE ANNUAL PERCENTAGE GAIN IN REAL OUTPUT PER MAN-HOUR
FOR SELECTED PERIODS, 1909-53

<i>Decade</i>	<i>Average Annual Gain</i>
1909-18.....	0.5%
1914-23.....	1.9
1919-28.....	2.7
1924-33.....	0.2
1929-38.....	2.4
1934-43.....	3.4
1939-48... ..	2.1
1944-53... ..	2.3

SOURCE: National Industrial Conference Board, Inc., *Management Record*, June, 1956, p. 204.

gain in productivity from 1934-43 probably reflects in large part an improvement in volume productivity as production in individual firms recovered from depression lows.

Productivity gains vary from industry to industry. While the long-term rate of growth in real output per man-hour has averaged about 2 per cent per year for the private economy as a whole, increases in manufacturing, mining, and transportation have ranged from 2 to 3 per cent, while communications and public utilities have averaged about 4 per cent; agriculture and trade, by contrast, have gained only about 1½ per cent per year.⁴

The fact that a particular industry may show, say, a 2 per cent improvement in man-hour output does not mean that all firms in the industry fare alike. The trend in the individual firm will be affected by the level of output, the extent to which the latest mechanical improvements are utilized, the caliber of management, the diversity of products produced by the firm, and similar factors.

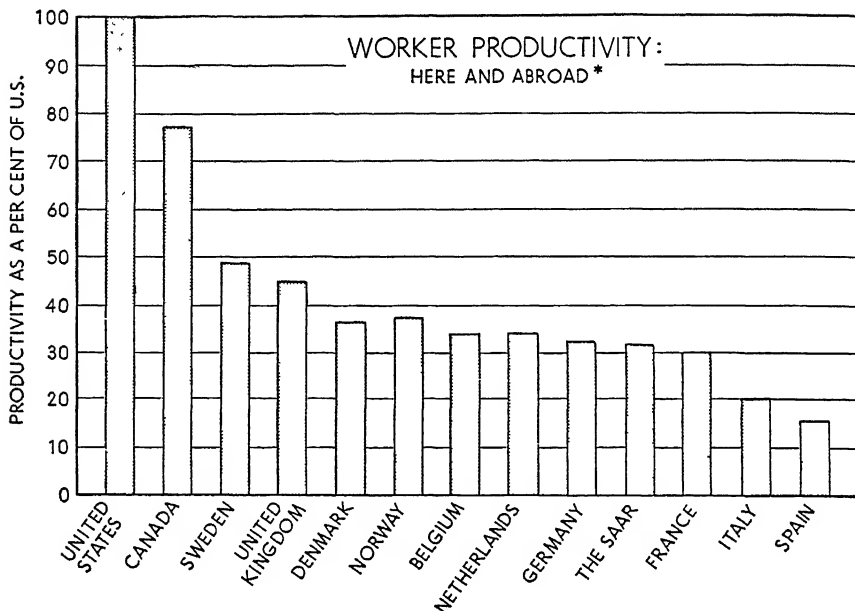
LABOR PRODUCTIVITY: HERE AND ABROAD

Figure 26 shows labor productivity performance for some of the leading countries of the world based upon 1950 figures.⁵ These figures

⁴ National Industrial Conference Board, Inc., *Management Record*, June, 1956, p. 205.

⁵ *Business Week*, November 7, 1953, p. 168, based on data supplied by Stanford Research Institute.

FIGURE 26
 WORKER PRODUCTIVITY. HERE AND ABROAD*



* The productivity comparison was worked out by analyzing the manufacturing value added to each country's product—roughly, the value of sales less cost of materials, supplies, fuel, and purchasing energy—in terms of U.S. dollars.

DATA: Stanford Research Institute. Reprinted from *Business Week*, November 7, 1953, p. 168.

suggest that American labor is more productive than labor in any other country, and that even in our neighboring country, Canada, manufacturing productivity per unit of labor is only about four fifths that of the United States. Based on these statistics it would appear that the average American worker turns out about three times as much per year as a worker in Europe and is also paid on the average about three times as much in terms of American dollars.⁶

However, statistics of relative productivity among various countries must be used and interpreted with caution. As has already been mentioned, even in this country the determination of output per man-hour using a combined product of many diverse industries is subject to many pitfalls. When a comparison is made with other countries, errors can be magnified through inadequate sampling, improper conversion of values on the basis of exchange rates, and other shortcomings in statistical technique. Thus while most surveys indicate that American labor is the most productive, there would be little agreement among various studies as to the precise degree of superiority enjoyed by the American worker.

⁶ *Ibid.*, p. 168.

What is the reason for the greater productivity of American workers? For many years it was believed that the advantage of the American worker lay in the greater amount of capital per worker used in production, reflecting the high degree of mechanization in American industry. Undoubtedly this is an important factor. For example, a recent survey⁷ of American and French shoe plants found that productivity in the American plants was more than twice that of the French plants and that the American plants performed more operations by machine. This survey also revealed that the shoe industry is more highly specialized in this country than abroad, and this fact too makes possible more production per man-hour in American plants. For example, in this country there is a highly developed shoe findings industry which manufactures shanks, box toes, cut soles, and other accessories and sells them to shoe manufacturing companies who incorporate them in the finished shoe. In France, on the other hand, this degree of specialization has not been achieved, and most of these parts have to be made in the shoe plant, with a consequent reduction of efficiency.

The greater productivity of American labor is, however, attributable to more than a mere advantage in specialization of industry or greater capital per worker. Two recent surveys have reported interesting data on this point. Professor Wassily Leontieff of Harvard University has recently advanced the idea that superior management plus the climate of our production-oriented society is the key to the high productivity of the American worker. He calls attention to recent studies of the productivity of Puerto Rican needleworkers, whose output has risen substantially when they were moved from San Juan, Puerto Rico to New York, although they used the same machinery in both locations.

A recent survey conducted by the Stanford Research Institute also found differences in productivity between plants here and abroad which could not be explained by differences in the amount of capital per worker. For example, "where identical capital equipment was used in the United States and abroad . . . typically the foreign plant was found to employ two or three times as many employees as the American plant in attaining the same output."⁸

It is apparent that the high productivity of American workers is attributable to a complex of factors: the high degree of mechanization and specialization in our industry, the capable management, the technically trained workers, the efficiency-minded society in which we live,

⁷ *Monthly Labor Review*, Vol. LXXVI, No. 7 (July, 1953), p. 727.

⁸ Report of Stanford Research Institute cited in *Business Week*, November 7, 1953, p. 168.

and union organizations which, much more so than their European counterparts, are conscious that the well-being of labor depends upon efficient production.

ALTERNATIVE MEANS OF DISTRIBUTING PRODUCTIVITY BENEFITS

Should the gains of increasing productivity be distributed through falling prices or rising money wages? On the whole, reduction in commodity prices would seem by all odds to be the *fairest* method of distributing the benefits of increasing productivity. In large measure, the increasing productivity of labor reflects the combined efforts of the whole community—of savers who contribute the capital equipment; of scientists who pioneer new methods; of entrepreneurs who combine the factors into new and more efficient working teams; and of workers who contribute the skill and brawn to make the technological advances a physical reality. Therefore, if these groups are all to be treated equitably, the increase in productivity representing their joint efforts should be reflected in falling prices, since only in this way can all groups share alike.

Does labor as a group have any special claim to the gains of technological advance that its needs should be given precedence over those of the rest of the community? Labor, as a group, may bear the major share of the inconveniences and dislocations produced by technological change so that a preferential right to the benefits might be claimed as compensation. But the falsity of this proposition lies in the fact that the particular workers who would get preferential treatment would be those who remain employed at the higher wages, while the ones who actually suffer the "inconveniences and dislocations" would find that the buying power of their relief checks would be reduced by the preferential treatment accorded their more fortunate employed brethren. Moreover, labor is not the only group affected by the incidence of technological change. Innovation in one firm may produce bankruptcy in competitors, compelling entrepreneurs to move to other areas to seek new positions. Similarly, stockholders and bondholders may suffer losses as a result of improved processes in competing firms. Are savers and entrepreneurs also entitled to compensation for the dislocations caused by technological change?

While it is difficult to prove that labor has any special right to the gains of productivity, some defense of distribution in the form of higher money wages is possible on the ground that unless this method is adopted, the full potentialities of technological progress will not be realized.

Some economists believe that the greatest stimulus is afforded to new investment, and adjustment to technological progress is facilitated when the price level remains relatively stable. Such stability of prices could be achieved by raising money wages as productivity increases. The alternative of a falling price level reflecting the reduction in costs of operation due to technological progress has, as we have seen, the advantage of distributing the gains of increased productivity to all groups in the community, but at the same time the reduction in prices may discourage investment and result in unemployment in the labor market. Actually, when the problem of distributing the gains of increased productivity is viewed as part of the larger problem of maintaining full employment, there may not be a "best way" of distributing the gains of technological progress. The effect of reduction in prices or rising money wages will depend upon the stage of the business cycle, businessmen's anticipations, and other circumstances which vary from time to time.

HOW GAINS OF INCREASING PRODUCTIVITY HAVE BEEN DISTRIBUTED

Over the last 100 years, the typical adjustment of the American economy to technological advance reflected in rising man-hour output has been in the form of rising money wages rather than through a falling price level. No other price series has risen as rapidly as hourly earnings of labor. In recent years, the rise in money wages has been particularly marked. In contrast to the period of the 1920's when hourly earnings were relatively stable, hourly earnings in manufacturing rose from a low of 44 cents in 1933 to \$2.08 in July, 1957.⁹

Constancy of Labor's Relative Share in National Income

Has the rise in price of labor given labor as a group a larger share than other groups in increasing national income? The answer would appear to be in the negative. The percentage of national income going to labor has remained relatively constant over a long period of years, except in periods of deep depression. (See Table 22 and Fig. 27.) Moreover, some investigations suggest that labor's share of income, industry by industry, has fared no more favorably in unionized industries than in nonunion industries. This statistical record has led some economists to conclude that for the material prosperity of labor as a whole it makes no great difference whether money wages rise swiftly or slowly, or whether

⁹ *Daily Labor Report*, August 19, 1957, p. 16.

labor is organized or unorganized;¹⁰ for without regard to these factors labor seems to receive a fairly constant proportion of any increase in national income. This statement undoubtedly embodies an important truth, but it is subject to some qualification. It should be remembered that a constant share of labor in national income *payments* actually indicates that labor is gaining materially relative to other groups, for no group achieved greater leisure time than labor has in the last 50 years. It is possible that union organization may be effective in accelerating the rate at which increasing productivity is converted into leisure, as well as in securing for employees various benefits such as paid vacations which are not fully reflected in statistics of national income payments.

TABLE 22
EMPLOYEE COMPENSATION AND NATIONAL INCOME
Selected Years, 1929-55
(In Billions)

YEAR	TOTAL WAGES AND SALARIES	EMPLOYER CONTRIBUTIONS TO SOCIAL SECURITY AND OTHER LABOR INCOME	TOTAL COMPENSATION OF EMPLOYEES	PERCENTAGE OF NATIONAL INCOME	
				Total Wages and Salaries	Total Compensation of Employees
1929.....	50.4	0.7	51.1	57.4	58.2
1933	29.0	0.5	29.5	72.2	73.6
1939.....	45.9	2.2	48.1	63.1	66.1
1941.....	62.1	2.7	64.8	59.3	61.9
1945.....	117.6	5.6	123.2	64.9	68.0
1946.....	111.8	5.9	117.7	62.3	65.5
1950.....	146.5	7.8	154.3	61.1	64.3
1955.....	203.9	12.4	216.3	64.5	68.4

SOURCE: *Economic Almanac for 1956* (New York: National Industrial Conference Board, Inc., 1956), pp. 426-27.

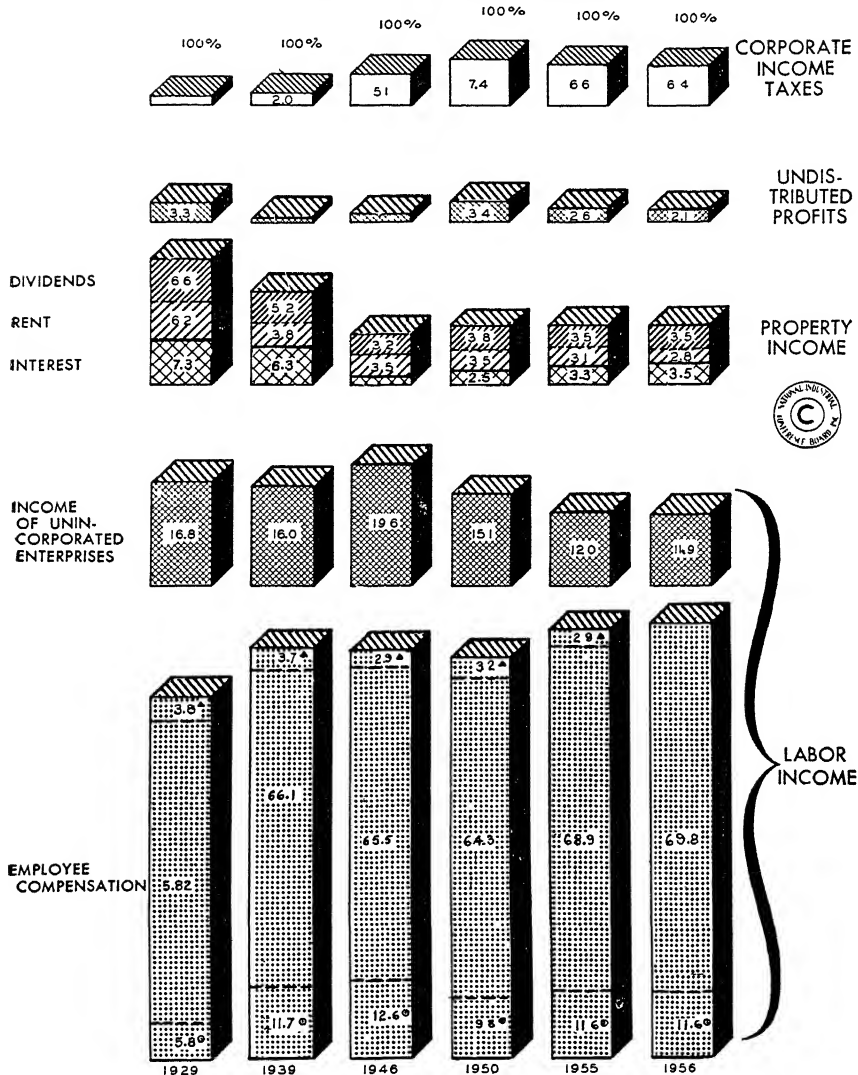
If the relative constancy in the share of the national product going to labor continues in the future, the real bargaining over shares in the gains of technological progress will be between unions and unions, rather than between labor and other income groups. Through the media of employers, unions will bargain with one another over division of the 60 per cent or more of the national income which goes to employees. Strong unions will impose wage rates and terms of employment which will compel employers to charge relatively high prices which everybody including the members of weak unions and their families will have to

¹⁰ This view was expounded, for example, by F. W. Taussig, "The Opposition of Interest Between Employer and Employee: Difficulties and Remedies," *Wertheim Lectures on Industrial Relations* (Cambridge, Mass.: Harvard University Press, 1929), p. 222.

FIGURE 27

LABOR AND PROPERTY SHARES, 1929-56

PER CENT OF NATIONAL INCOME



• AFTER INVENTORY VALUATION ADJUSTMENT ° FEDERAL, STATE AND LOCAL GOVERNMENT EMPLOYEES INCLUDING MILITARY
 * CORPORATE OFFICERS

pay.¹¹ Members of strong unions will therefore increase their real incomes at the expense of members of weak unions.

¹¹ S. H. Slichter, *The Challenge of Industrial Relations* (Ithaca, N.Y.: Cornell University Press, 1947), pp. 75-76.

THE ANNUAL IMPROVEMENT FACTOR FOR LABOR

In 1948 a new concept—the annual improvement factor—made its appearance in the field of American labor relations. The annual improvement factor was included in the 1948 contract between General Motors Corporation and the United Automobile Workers' Union and was set at 3 cents an hour. Management and labor in effect agreed that labor was entitled to receive a wage increase of this amount because of an assumed gain in productivity of labor during the year. The standard applied was the average rate of increase in productivity over the economy as a whole as indicated by statistical investigations based upon past years.

In 1950 the same parties executed an unprecedented 5-year contract and raised the level of the improvement factor to 4 cents an hour for each year during the life of the contract. In 1953, as a result of Walter Reuther's "living document" theory, the 4 cents was changed to 5. Then, in the 3-year contract executed in 1955, the improvement factor was converted to $2\frac{1}{2}$ per cent with a minimum increase of 6 cents per hour. In 1950 the 4 cents an hour increase amounted to an annual increment equal to about $2\frac{1}{2}$ per cent of the average base rate in this company. As stated by Charles E. Wilson, then President of the General Motors Corporation, "The annual improvement factor is designed to improve the buying power of an hour's work so that over a period of years employees would be assured of an ever-improving standard of living."

The annual improvement factor will undoubtedly gain in importance in years to come as an objective of union bargaining. It is, on its face, a relatively simple concept with an appealing logic to it which makes it an excellent bargaining tool for union leaders. In times of relative stability in prices, when the rising cost of living cannot be pointed to as a reason for wage increases, the argument that labor should get an annual improvement factor will undoubtedly find strong support in labor circles. The annual improvement factor is a convenient rationalization for labor's demand for continuing improvement in the level of compensation. It is significant that in 1957 about 5 million workers were covered by contracts extending for more than a year and providing for automatic wage adjustments during the term of the contract.

Arguments Advanced for the Improvement Factor

What are the arguments advanced by proponents of the annual improvement factor? Union spokesmen contend that the annual improve-

ment factor is necessary in order to insure that labor will share in the gains of increasing productivity and that consumers will have adequate funds to purchase the increase in output made possible by our advancing technology. The first contention is refuted by the facts of history; real wages have continually advanced without a specific improvement factor being incorporated in union contracts. The second contention embodies the so-called underconsumptionist view which gained many adherents, particularly among the ranks of labor, during the Great Depression of the 1930's. This view erroneously identifies wages and purchasing power, and it assumes that unless wages are continually increased a gap will develop in the flow of funds which will make it impossible for consumers to carry off the flood of products produced by our factories and fields. Wages are, of course, only a portion of the income stream. In 1955, wages and salaries constituted only 64.5 per cent of total national income. (See Table 22.)

The fact is that all costs, whether they represent payment for new plant or for labor, ultimately become disposable income for someone so that there is at all times a sufficient amount of purchasing power continually being put into the income stream to make possible the purchase of current output at prices covering the total costs of production. If technological progress makes possible the production of a larger total volume of goods, they need not be sold at former prices since the lower level of costs attributable to technological advances makes possible a reduction in prices without loss to producers.

An argument in support of the annual improvement factor which rests on stronger ground is based on recognition of the rigidities in our economic system. This argument goes as follows: the gains of increasing productivity can be passed on through a fall in prices while money wages remain constant or by a rise in money wages while prices remain constant. The first method may be more equitable to all groups in our society, but it is likely to have a depressing effect upon businessmen's anticipations of profits and so may discourage new investment. Conditions favorable to investment and employment in our present-day economy can best be fostered by a slowly rising money wage level and relative stability in prices. The annual improvement factor, assuming that it is set at a reasonable level, would tend to produce such stability in prices and would at the same time give labor a sense of actively improving its lot so that frictions between labor and management would be minimized.

This school of thought has prominent adherents, and the viewpoint has considerable merit. However, many economists who favor the alterna-

tive of rising money wages and stable prices¹² as a means of distributing the gains of increasing productivity would not support the annual improvement factor if its adoption generally were to have an actual inflationary effect so that prices would rise continuously. The possibility that adoption of the improvement factor by industry at large may create such inflation will be examined in the following discussion.

Arguments Advanced against the Improvement Factor

Despite the acceptance of the principle of the annual improvement factor by some companies in the automobile industry, most employers in industry at large are opposed to a commitment which would gear the wage levels in their individual businesses to an assumed average rate of increasing productivity over the economy as a whole. National real output per man-hour over the economy as a whole has increased on the average over a long period of years at a rate in the neighborhood of 2 per cent per annum. In manufacturing industry—and in the automobile industry in particular—the rate has probably been substantially higher. Employers in the automobile industry, therefore, in agreeing to annual wage increases in an amount equal to about 2½ per cent of the average basic hourly wage rate, have taken a figure which may still leave some room for reduction of costs as a result of the rapid pace of technological progress in those firms.

Employers in other lines of business, however, are less optimistic concerning the rate of increase in man-hour production in their lines of business. They believe that it is uneconomic to relate their wage levels to general changes in productivity and prefer to base wage increases on incentive systems geared to the productivity of particular employees or the productivity experience of the particular firm. Furthermore, employers do not believe it is practical to reduce wage determination to a simple fixed formula. Increasing productivity, they argue, may perhaps be one of the factors entitled to consideration in wage negotiations, but it should not be the sole criterion. For example, particular firms may from time to time experience sharp competition which requires price cuts in order to preserve the position of the firm in the market. In such cases, even if productivity has shown a marked gain, it may be necessary for the

¹² In a symposium of economists on postwar adjustments, Professors H. S. Ellis and A. Hansen advocated maintenance of a stable price level with all of the increase in average productivity translated into higher wage rates. Professor J. H. Williams, on the other hand, advocated that benefits of productivity be distributed only in part through higher wages, the rest in lower prices. See Paul T. Homan and Fritz Machlup (eds.), *Financing American Prosperity* (New York: Twentieth Century Fund, Inc., 1945), p. 432.

firm to pass on such gains in the form of lower prices to consumers rather than in the form of an annual improvement factor to labor.

Employers also contend that an annual improvement factor would not be practical in periods of declining business activity. On this point, they encounter sharp disagreement from labor spokesmen. The latter argue that if purchasing power were maintained during such periods by means of an annual improvement factor, business recessions would be less severe, and the cumulative process of deflation would be curbed in its inception. Management, however, maintains that the only way output and employment can be maintained in such periods is by reducing prices and contends that a commitment to make annual wage boosts based on assumed productivity changes would deprive management of the flexibility in wage and price policies which it needs most at such times.

Shortcomings of the Improvement Factor

The economist views the annual improvement factor with mixed emotions. It is in a sense his offspring, for it was the investigations and writings of economists which have popularized the notion that productivity increases at an annual rate of about 2 per cent. Economists recognize, however, that we know very little about productivity changes, and therefore there is some feeling that it is a bit premature to elevate our rough estimates of productivity to an automatic formula for wage adjustments. The fact is that our statistics are based only upon crude estimates. One well-known expert in the field of productivity statistics states the problem as follows:

Consider the apparently accepted measure of long-run average increase in national real output per man-hour of 1.9 or 2.0 per cent per annum, the basis of the GM-UAW settlement. Such a figure can be derived only from deflated national income series that are rough approximations prior to 1919, if not 1929; rough estimates of employment that are based on incomplete payroll statistics with gaps filled in from the Censuses of Occupations adjusted for unemployment; and very crude estimates of change in the length of the work week. No one familiar with the basic data and their limitations would call the final estimate precise.¹³

Moreover, such figures as we do have indicate that productivity changes are very irregular from year to year so that the "average" rate which is the basis for the improvement factor in most contracts is apt to be misleading. For example, there is evidence of a cyclical variation in productivity with man-hour output increasing more rapidly in periods

¹³ Solomon Fabricant, "Of Productivity Statistics: An Admonition," *Review of Economics and Statistics*, Vol. XXXIV, p. 309.

of cyclical expansion than in times of recession. Averages based upon annual data for ten peacetime cycles (war periods omitted) indicate that in periods of expansion output per man-hour has grown at about three times the rate prevailing in periods of contraction.¹⁴ Furthermore, in some years, man-hour output actually registers a decline. Statistical studies suggest that this was true of 1915, 1917, 1920, 1930, 1932, 1933, 1946, and 1947.¹⁵ Moreover, we have no way of knowing whether or not productivity will continue to register the same rate of increase in the future. As will be pointed out in Chapter 16, union organization itself may either accelerate or retard the tempo of technological progress. In the light of all these uncertainties concerning the rate of annual improvement in man-hour output, it is understandable why some economists are somewhat skeptical concerning the desirability at this time of incorporating in labor contracts a formula for annual wage adjustments based upon assumed increases in productivity.

Effect of Improvement Factor on Wage Movements

The annual improvement factor, if adopted generally by industry, will tend to accelerate the trend toward uniformity in wage movements over the economy as a whole. Such a trend is probably undesirable from the point of view of achieving the optimum distribution of resources. At all times there are certain firms and industries which are contracting and certain firms and industries which are expanding in response to changing consumer demands. General wage adjustments of a uniform amount tend to attach an unduly large amount of labor to declining industries and make it more difficult for expanding industries to obtain labor.

If uniform increases over the whole economy based upon an average rate of improvement in productivity are undesirable, what can be said of wage adjustments which would vary depending upon the increase in productivity in particular firms? Above-average increases in productivity are frequently achieved in expanding firms. Higher than average wage rates in such firms are desirable to attract additional labor. On the other hand, it can be argued that the workers who happen to be fortunate enough to be employed in these particular firms should not be the sole beneficiaries of the improvement in productivity. Furthermore, unusual advances in productivity are sometimes also achieved in firms which are losing sales and must apply laborsaving improvements to stay

¹⁴ Frederick C. Mills, "The Role of Productivity in Economic Growth," *American Economic Review*, Vol. XLII, No. 2 (May, 1952), p. 547.

¹⁵ Jules Backman, "The Economics of Annual Improvement Factor Wage Increases," *New York University Business Series No. 10*, June, 1952, p. 70.

in business. In such cases, it would be undesirable to have the firm paying above average rates.

Wage Policy and Productivity Changes

General wage increases should be made of an amount somewhat less than the average increase in productivity. In so far as increasing productivity is associated with increasing production and increased demand for labor, the industries showing the largest increases in productivity should have the highest wage increase. However, wages in these expanding industries should exceed wages for comparable occupations in other industries only by the minimum necessary to attract labor in the needed amounts. On the other hand, in industries in which output and demand for labor are declining, the increase in wage rates should be less than the average so that workers will be encouraged to move to other occupations. Although the increase in the general level of wages should reflect the average increase in productivity, the change in particular industries should be in accord with changing conditions of demand for labor rather than with trends in productivity alone. Since a high rate of technological progress is often found in expanding industries, a policy of converting this high rate of productivity into wage increases would retard the expansion of such industries and therefore limit employment opportunities in the economy as a whole. It has therefore been urged that wages should be raised at the *pace*, but not at the *place*, at which technological progress occurs.

THE LABOR DILEMMA

If labor, as a group, were to receive the entire benefit of annual gains in productivity, real wages would rise only 2–3 per cent per year. Should unions seek to raise money wages by more than 3 per cent per year, the amount of the increase in excess of 3 per cent would tend to be reflected in a rise in general prices. In other words, given a normal rate of technological progress, a stable price level can be maintained only if unions content themselves with annual increases in money wage rates not in excess of the rate of increase in man-hour output. Such increases in money wage rates would average 3–4 cents per hour. The wage increases in the news indicate clearly that unions have set their wage goals considerably higher. For some time now, wages have been rising faster than the productivity of labor. Between 1953 and 1956, for example, output per man-hour in manufacturing went up about 7.7 per cent, but average

hourly earnings increased 11.8 per cent, and there were additional increases in fringe benefits.¹⁶

Improvement Factor and Inflation

The annual improvement factor contained in the UAW-General Motors contract is 6 cents per annum. It can be readily seen, therefore, that if this factor were to be accepted generally by industry and incorporated in union contracts, labor would in effect receive practically all of the gains of increasing productivity through annual advancement in hourly earnings. The danger inherent in the annual improvement factor, however, is that by reason of its very rationale it is likely to become a floor under annual wage adjustments. Union leaders will come to expect this amount of increase and then will set out to get something extra on top of it. Since the improvement factor is supposed to be paid out of increasing productivity, employees will be led to believe that it does not cost the employer anything, with the result that union leaders will find strong support among their membership for extras in the pay envelope in addition to the improvement factor. Since unionism is by its very nature a dynamic institution, there is some doubt whether its leadership could retain the allegiance and support of union members if it were to leave the future trend of wages to an automatic and impersonal formula geared to the average rate of increase in productivity. Just as union leaders have found long-term contracts dangerous to maintenance of their leadership, so it seems likely they will find it necessary to "do better" than the formula, once the annual improvement factor becomes an accepted fact in industrial relations.

On the whole, therefore, the annual improvement factor, though theoretically geared to productivity changes, must, from the practical point of view, be placed in the category of union demands which tend to create wage adjustments in excess of the rate of increasing productivity. Such union policy would make continuing inflation a real possibility. The rise in prices which would result from wage adjustments in excess of, say, 3 per cent per year would not only endanger the value of savings but also would produce a continuing decline in the standard of living for fixed income groups. These two consequences are packed with political dynamite, for the future of a free labor movement depends upon the stability and security of the middle class. Should this class conclude that labor unions are endangering its standard of living and security by producing an upward wage-price spiral, it might be led to sponsor and

¹⁶ S. H. Slichter, "Current Business Trends and the Wage Outlook," *The Commercial and Financial Chronicle*, March 7, 1957.

support restrictive measures which would spell the end of the free labor market as we know it.

Alternatives to Inflation

An uncontrolled price level, therefore, threatens serious dislocations in our economic system as well as in the alignments of various sociopolitical groups. But the alternatives are equally unwelcome. To attempt to maintain a stable price level by means of price controls while leaving wage levels uncontrolled would produce unemployment as a result of the pressure of rising costs against a fixed price level. And to attempt to control labor, by dictating wage rates through government decree, would run counter to our democratic principles, at least in a nation which is at peace.

Thus, the United States faces a dilemma, the solution to which may have repercussions of international scope. There are three objectives which we, as a nation, prize: full employment, price stability, and a free labor market. The first is of obvious importance. The future of Europe and the continuance of democratic capitalism all over the world may well depend upon the success of this nation in warding off another decline of the nature of the 1933 debacle. The importance of price stability has already been examined. This objective too has international implications, since rising domestic prices make it increasingly difficult for foreign countries to buy our products and therefore may necessitate expanding loans on our part in order to finance these purchases by foreign nations. The result may be the building up of a situation—closely paralleling the state of affairs existing in 1929—in which a contraction of credit in the United States will bring down the whole world structure of trade.

The third objective is in many respects the epitome of democracy. A free labor market is inextricably associated with our notion of economic democracy, and furthermore, as a practical matter, we must recognize that enforcing wage controls in peacetime in a democracy is politically unfeasible.

Here then are three economic objectives, each of which is important and perhaps essential to the continuation of economic and political democracy in this country. Yet circumstances have so developed that we cannot achieve all three of these objectives. If we desire price stability and full employment, we cannot permit wage rates to rise without limit. If we desire full employment and a free labor market, we must sacrifice price stability. If we desire price stability and a free labor market, we must sacrifice full employment.

Thus a choice must be made. We must seize one horn of the di-

lemma. Yet whichever means we take, we run a serious risk to our democratic way of life. Political expediency will probably lead us to give up price stability in order that full employment and a free labor market be preserved. It may well be that a rising price level is even desirable from the point of view of stimulating investment and employment. But the dangers inherent in a prolonged rise in prices are equally apparent. Much, of course, will depend upon the rate of climb in prices. This, in turn, will depend in large part upon the size of union wage demands. In the last analysis, the stability of capitalism and the continuance of our democratic way of life may hinge upon the restraint with which union leaders wield the great power which they now hold over wages and, indirectly, over commodity prices.

QUESTIONS FOR DISCUSSION

1. How have the gains of increased productivity been distributed over the last 100 years? From the point of view of achieving maximum employment in our economy, what is the best method of distributing such gains?
2. What is meant by "labor productivity"? How does this concept differ, if at all, from labor efficiency?
3. Discuss the merits and shortcomings of the annual improvement factor.

SUGGESTIONS FOR FURTHER READING

GREENBERG, LEON. "Output per Man-Hour in Manufacturing 1939-47 and 1947-53," *Monthly Labor Review*, Vol. LXXIX (January, 1956), pp. 1-6 and pp. 63-68.

Statistical summary of gains in man-hour output during period studied together with discussion of concept and formulation of indexes used by the Bureau of Labor Statistics to measure productivity.

MILLS, F. C. "The Role of Productivity in Economic Growth," *American Economic Review*, Vol. XLII (May, 1952), pp. 545-57.

A discussion of trends in various indexes of economic growth.

"Productivity and Wages," *Review of Economy and Statistics*, Vol. XXXI (1949), pp. 292-311.

Three articles dealing with problems of relating wages to productivity.

"Productivity Trends—I. The Continuing Change in Portions of Capital and Labor," *The Business Record* (NICB), February, 1956; "Productivity Trends—II. Portents for the Future," *The Business Record*, April, 1956; and "Productivity Trends: Implications for Wage Policy," *Management Record* (NICB), June, 1956.

An enlightening series of articles on various aspects of the problem of productivity.

Chapter 16

UNIONS AND INDUSTRIAL EFFICIENCY

We have already observed in previous chapters that union wage pressure may produce a continuing inflation in prices unless the pace of technological progress and improvement in efficiency of industry is sufficiently rapid to offset the rise in labor costs resulting from wage demands. Thus the very stability of our economy and the preservation of our free economic institutions may depend in large extent upon our ability as a nation to stimulate progress in technique and eliminate waste in industry.

Despite the fact that we have the most efficient industrial apparatus in the world, there is still a large amount of waste and inefficiency in our plants and establishments. Workers will talk and laugh about the way Joe Jones spent an hour looking for a wrench or how the old lathe at the plant keeps breaking down. These inefficiencies—and others less obvious—are the result of inadequate supervision, antiquated machinery, poor production methods, and unsatisfactory use of manpower. The most progressive plants gradually eliminate such inefficiencies, only to have new ones take their place, while in firms where management is less alert and capable, waste and inefficiency accumulate. Yet such firms may survive under such conditions for years, protected from the full rigors of competition by a patent, trade-mark, or monopolistic position.

What can be done to improve the efficiency of industry? What impact are unions likely to have on industrial efficiency in the future? Does wage pressure stimulate introduction of machinery? These are the questions to which we shall address our attention in this chapter.

THE HUMAN FACTOR IN EFFICIENCY

"Of all the factors that make for efficiency or inefficiency in production, the human factor easily ranks first."¹ Labor is, after all, the

¹ Peter Drucker, "The Human Factor in Mass Production," in American Management Association Production Series No. 175, *Labor Management Cooperation for Increased Productivity* (New York, 1948), p. 41.

primary factor of production even in our machine society. The crucial problem of our times is to use labor most advantageously, having regard not only for the needs of productive efficiency but also the needs of the worker as an individual.

In recent years there has been increasing attention by personnel men and production engineers to the psychology of the individual worker. This has manifested itself in a variety of interesting forms. For example, pullman cars on the railroad now carry on each car a name plate giving the name of the porter in charge of the car. This simple move has a sound psychological basis. The porter is no longer just another nameless employee who shines shoes and makes up berths. He is John Smith. His job has been given new dignity and individual importance.

Another manifestation of the recognition that individual human needs affect efficiency has taken the form of studies made of the effect of physical surroundings on individual workers. The interiors of many industrial plants are being painted in soft colors; other plants are installing soft music; others are experimenting with new types of lighting. This does not mean that industry is becoming soft or that employees are being pampered. Rather it is part of the transition from the machine age to the human age. It reflects an effort on the part of management to combine mass-production methods geared to the machine with personnel policies and techniques aimed at the individual worker.

The greatest changes are yet to come. They may well involve a fundamental reappraisal of the theory of our mass-production system. Mass production is based on the division of work into simple components so that work can be subdivided minutely, and each worker doing a simple job can become highly adept at it. This is sound engineering—it lends itself to the use of machinery, conveyor belts, and the other devices which are common in modern factories.

However, the mass-production principle as it is applied today actually involves poor human engineering. A worker is not a single-purpose tool. On the contrary, the human brain enables a man even of below normal intelligence to do a number of operations at one and the same time. Man can co-ordinate and integrate actions. But many of our subdivided assembly lines do not take advantage of this faculty and utilize workers as mere automatons. Such "use of the human tool for one repetitive motion is likely to result in a great increase in fatigue and strain."²

It has been suggested that the trend in the future may be toward development of multipurpose machine tools which will enable one man

² *Ibid.*, p. 46.

on one machine to supervise a number of operations.³ This would more fully utilize human capabilities and at the same time would perhaps give the worker the feeling that he is doing something more important than the simple operation now required of him in most plants. However, any effort to introduce multioperation jobs must be made with caution since unions may feel that this is only a form of disguised speed-up or stretch-out. If a worker is to be called upon to do more than a simple repetitive action, unions will want to be shown that fatigue is not increased by adding to the complexity of the work, and that the worker receives additional compensation for additional responsibilities.

It should also be mentioned that some specialists in this field believe that workers like simple operations which do not require too much concentration and that making operations more complex may perhaps work out for the more intelligent employees but not for the average worker.

The Impact of Automation

The increasing use in industry of "feedback control"—the principle of automatic self-regulation—is bringing closer the day of the completely automatic factory. In those industries where automation can be fully applied, a new type of labor force will be required. The repetitive tasks of today's machines tended by workers will be performed by automatic machines operated by automatic controls. The jobs that will be created in addition to research and design will be service and maintenance jobs which should permit a higher degree of individual satisfaction in work. As one writer puts it, "there is a great deal more pride, ability, and ingenuity among skilled mechanics and electricians and instrument men than there is among production-line workers who are paced by a machine and spend the whole day feeding the machine while it does the job of fabricating."⁴ Thus, the development of automation may make possible the more efficient use of human capabilities by enabling machines to do the repetitive tasks of industry, while leaving to employees those jobs which require the application of skill and human discretion.

UNION-MANAGEMENT CO-OPERATION

The workers in our plants and factories constitute a great untapped source of ideas to increase productive efficiency. It is only natural that employees who actually run machines and do the work in a plant, store,

³ *Ibid.*

⁴ John Diebold, "What Is Automation?" *Management Record*, September, 1955, p.

or other establishment should see ways to cut waste and improve efficiency. How can industry get the advantage of this know-how? The problem is not easy, for there are fears on the part of both management and workers which to date have proved a substantial stumbling block in the path of effective union-management co-operation.

Union-management co-operation, as the phrase is ordinarily used, implies a somewhat formalized plan of joint meetings between company and union representatives. It differs from suggestion systems which normally provide no union representation and are merely means whereby individual employees may submit suggestions on production problems to management with cash awards paid for suggestions adopted.

Both the simple suggestion box system and the more formalized union-management committee can make substantial contributions toward greater productive efficiency only if they have the full support of both labor and management. To date a major obstacle has been the fear on the part of unions and employees that suggestions made by them to help the employer to reduce costs would ultimately be used against employees by reducing employment.

This fear on the part of employees is well illustrated by the following excerpt from a skit presented by the Steelworkers' Union, in which a new worker in a plant learns the ropes about being free with ideas to improve efficiency:⁵

"I discovered a way to hook up three of these machines so a fellow can operate them and get out three times the number of bolts that he can now produce on one machine," the upsetter observes to his foreman just a few weeks after he enters the shop.

The foreman replies, "You're paid to run an upsetting machine, not to do the thinking around here."

The foreman, however, tells his superior; and eventually the idea filters up to the President, who takes credit for the idea himself and lays off the upsetter.

Moral: "Well, folks, you see it's like this. A new fellow's gotta learn his way around these parts. He can't afford to be so free with his ideas. Never can tell when one will swing right back and knock him plumb outta his job. A fellow's gotta learn to keep his mouth shut at the right time. Yes, sir!"

This story indicates quite well why the results of most suggestion systems are somewhat disappointing. After all, a worker can hardly be expected to use ingenuity in devising new laborsaving methods in a contest for a hundred-dollar prize when the result may be to put someone—perhaps himself—out of a job. In the relatively few companies in which

⁵ Cited in C. S. Golden and H. J. Ruttenberg, *The Dynamics of Industrial Democracy* (New York: Harper & Bros., 1942), p. 234.

union-management committees have been formed and function effectively, there has usually been some assurance by management that some protection, such as dismissal compensation or rehiring at first opportunity, would be afforded to employees dismissed as a result of the joint program to reduce costs.

From the point of view of management, a major reason for reluctance to enter into such joint discussion of production problems with unions has been the fear that such co-operative efforts would serve as an entering wedge for unions to exert influence over a field which has been reserved as an exclusive prerogative of management. General Motors Corporation, for example, has consistently rejected union-management co-operation in this field. Even during World War II, it would not co-operate with a government-sponsored plan for establishing plant union-management production committees.

Conditions Producing Union-Management Co-operation

In all but a few cases, union-management co-operation has developed in plants in which the prosperity of the company and the jobs of workers were threatened by competition from nonunion plants (hosiery, clothing, printing), by cyclical fluctuations (electricians, steel), or by secular employment declines (railroads). The exceptions occurred mainly under patriotic impulse during World War II,⁶ or because of the belief on the part of a few union and management officials that such co-operation is a good thing.

Adverse economic conditions do not necessarily guarantee the adoption of a co-operation program. Various other elements enter the picture. The United Mine Workers have never sought to co-operate despite the competition of nonunion mines in the 1920's or of competitive fuels ever since World War I, apparently because the primary objective of the UMW leadership is high wages for those still employed rather than maintenance of high employment. Communist-led unions have opposed such "capitalistic collaboration" as co-operation, except under stress conditions—e.g., when they regarded it as necessary to insure delivery of war materials to Russian armies during World War II. In some plants, workers are so wary of managerial intentions that it would be political suicide for union leadership to urge adoption of co-operative programs. In others, union members and/or leaders have failed to appreciate either the importance of the threat to their jobs or the potential amelioration which union-management co-operation might effect.

⁶ The U.S. War Production Board sponsored "production committees" which had this function.

Union-management co-operation has never been widely practiced, and the future does not appear to hold great promise for its extension. It is likely to continue in only a handful of plants. Moreover, in plants where it has been tried, it appears to be successful for only a short period. Then interest and results fall off. As in many walks of life, adversity brings labor and management together, but prosperity does not nurture co-operation. This is especially unfortunate since, by increasing productivity through lowering unit costs, union-management co-operation could serve as a potent weapon against inflation in periods of full employment and rising prices. Moreover, effective union-management co-operation would tie in with the new views on human engineering since it would make use of the faculty of the human brain to devise new methods of doing work and would contribute to higher employee efficiency. As has been pointed out in a well-known union treatise, "The idea that workers are hired to follow instructions only and not to do any original thinking constitutes an impediment to productive efficiency."⁷

WAGE PRESSURE AND INVENTION

Some economists picture the average businessman as a somewhat lethargic individual who requires prodding from time to time to maintain his organization at top efficiency. These economists suggest that wage pressure may provide the stimulus that spurs the economic man to discover new ways of reducing costs and improving efficiency. Does union wage pressure "induce" invention? What effect will union rules have on invention of laborsaving devices?

Unions and Industrial Research

In modern industry, much of our improved technology originates in industrial research laboratories. During the past quarter of a century, the number of firms engaged in industrial research has multiplied eightfold, while expenditures for this purpose have increased fifteenfold. Total annual research expenditures of all kinds, including those of industry, colleges, foundations, and government are in excess of \$5 million. (See Fig. 28.)

Research gives us new products—it is estimated that one half of our total employed labor force today holds jobs which are based upon products developed or improved in research laboratories.⁸ It also gives us new, more efficient methods of production—thus electronics and atomic power

⁷ Golden and Ruttenberg, *op. cit.*, p. 236.

⁸ *New England Letter* (Boston: First National Bank of Boston, April 30, 1953), p. 3.

are being adapted in the laboratory to save manpower. As can be seen from Figure 28, the electrical equipment and instrument industries are spending a high percentage of the sales dollar on research. These two industries are in the forefront of the development of automation. During 1954, about \$3 billion worth of control systems and parts were sold by the automatic controls industry.⁹ Most of these products were unknown a decade ago and are the result of years of research.

Does wage pressure have any effect upon the amount of money which industry spends on research? Any answer to this question can only be speculative. It might be thought that as wage costs rise, businessmen would increase expenditures on research to find new methods to save labor. A survey conducted by one of the authors, however, found that most businessmen interviewed did not think that rising wage rates had any marked influence on the level of research expenditures.¹⁰ In this connection it is interesting to note that during the period from 1920 to 1931 when wage rates were relatively stable, research expenditures increased fivefold.¹¹ Apparently, the great growth of research in this country cannot be attributed to wage pressure, although high wages, as one element of the cost-price structure, have undoubtedly provided an economic setting conducive to research and invention. If over the cycle there is a correlation between wage levels and expenditures on research, this is probably attributable to the temporal coincidence of high wages and good business rather than to a causal relationship between wage levels and research expenditures. Expenditures on research are deductible by corporations in calculating their income subject to federal income tax. When profits are high—and particularly when an excess profits tax may be assessed—businessmen prefer to spend money on research to improve their future competitive position rather than to pay out the money in taxes to Uncle Sam.

Despite strong pressure by unions for wage increases in recent years, only about 25 per cent of regular corporate research budgets appears to be devoted to all types of cost reduction, while in the neighborhood of 75 per cent is allocated to product improvement and development of new products.¹² Furthermore, the percentage of corporate research budgets allocated to cost-reduction projects actually appears to be decreasing.

⁹ Diebold, *op. cit.*, p. 357.

¹⁰ Gordon F. Bloom, "Union Wage Pressure and Technological Discovery," *American Economic Review*, Vol. XLI (September, 1951), pp. 603–17.

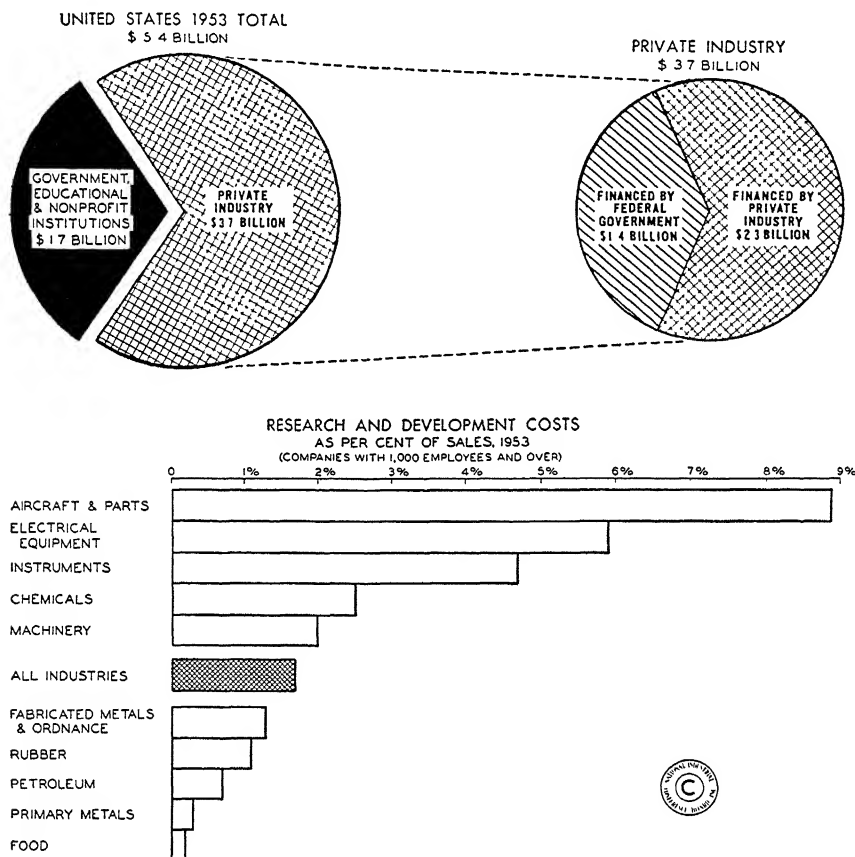
¹¹ D. Weintraub and I. Kaplan, *Summary of Findings to Date* (Philadelphia: U.S. Works Progress Administration, National Research Project on Reemployment Opportunities, March, 1938), p. 6

¹² Bloom, *op. cit.*, p. 607.

That this trend has become evident during a period of rapidly rising wage rates is significant. A number of reasons suggest themselves as explanations for this trend. In the first place, most industrial research is supported by large corporations which make big expenditures for advertising stressing product quality and improvements. Emphasis upon quality and service is a dominant characteristic of large business enterprises, and it colors not only sales policy but research activity as well. In the

FIGURE 28

RESEARCH AND DEVELOPMENT COSTS, UNITED STATES, 1953



Employing 400,000 scientists, engineers, and supporting personnel, private industry engaged in research and development programs costing \$3.7 billion in 1953. This sum excludes an additional \$100 million spent by industry for work performed by colleges, and by outside laboratories and other organizations. Eighty-five percent of the industry cost was accounted for by companies having 1,000 or more employees.

SOURCES: Bureau of Labor Statistics, National Science Foundation.

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Reprinted from *Road Maps of Industry*, No. 1099 (January 18, 1957).

FIGURE 28—*Continued*

Industry	%
Aircraft and Parts.....	8.9
Electrical Equipment	5.9
Professional and Scientific Instruments.....	4.7
Chemicals and Allied Products.....	2.5
Machinery.....	2.0
Fabricated Metal Products and Ordnance	1.3
Rubber Products	1.1
Petroleum Products and Extraction.....	0.7
Primary Metal Industries	0.3
Food and Kindred Products.....	0.2
All Industries	1.7

TECHNICAL NOTES

Research-development

Research-development includes basic and applied research in the sciences (including medicine) and in engineering, and design and development of prototypes and processes. It does not include nontechnological activities and technical service such as quality control, routine product testing, market research, sales promotion, sales service, geological or geophysical exploration, and research in the social sciences or psychology.

Cost of research-development

Total cost incurred embraces all research-development activities, including salaries, other direct costs, service and supporting costs, plus a fair share of overhead (administration, space charges, rent, etc.). It does not include capital expenditures or patent expense.

second place, it is possible that investment in research aimed at cost reduction is subject to more rapidly diminishing returns than investment in research devoted to development of new and improved products. In many operations, it becomes progressively more difficult to reduce labor costs as a higher degree of automatism is achieved. Carton-filling is an example of an operation which has reached this stage. On the other hand, the

possibilities of increasing profits through product improvement seem to be unlimited. In the third place, research directed at product improvement is less likely to displace labor and thus produces less friction with the labor force. This consideration is probably not of great importance at present but might become more significant if the volume of unemployment were to become substantial.

It is important to recognize, however, that product improvement in one industry may be designed to reduce costs in the industries that use the product. As Professor Sumner Slichter observes, the effect of union wage pressure often cannot be observed in the particular firms or industry in which the wage increases occur but must be sought in related industries:

The response of technological research to the bargaining power of this or that union does not necessarily occur in the industry where the members of the union work. For example, the response to the great bargaining power of the locomotive engineers and firemen may be in the improvement of locomotives by the locomotive builders rather than in the research done by the railroads themselves ¹³

Unions and Invention

Although wage pressure may not have much relation to the volume of research expenditures, it is still possible that it may stimulate the rate of discovery of new cost-saving methods of production. Every employer, every foreman—indeed, every employee—is a potential inventor. Anyone who designs a new way of arranging the flow of production, or, seeing a bottleneck in production, devises a new attachment for a machine which increases man-hour output, adds to the stream of invention. Will union wage pressure stimulate employers in their search for such *new* methods of production?

Some economists believe that there is a close relationship between invention and the wage level. They believe that a rise in the rate of wages (which is the price of labor) relative to the rate of interest (which is the price of capital) will “induce” the discovery of methods of production which will save labor.¹⁴ This theory states that the frequency of labor-saving inventions depends upon the rate of increase in wages relative to interest rates. Laborsaving inventions save labor, whereas capital-saving inventions save capital. According to this theory, if interest rates were to

¹³ S. H. Slichter, *The Challenge of Industrial Relations* (Ithaca, N.Y.: Cornell University Press, 1947), p. 90.

¹⁴ The most well-known statement of this viewpoint appears in J. R. Hicks, *Theory of Wages* (London: Macmillan & Co., Ltd., 1952). See also for a critique of this theory Gordon F. Bloom, “Note on Hick’s Theory of Invention,” *American Economic Review*, Vol. XXXVI (March, 1946), pp. 83–96.

rise relative to wages, there would be a greater inducement to save capital, and, as a result, the frequency of capital-saving inventions would increase.

Other economists, however, contend that because of the unpredictable nature of the process of invention, wage increases do not necessarily call forth any increase in the number of laborsaving *discoveries*. According to this view, most inventions will be laborsaving simply because of the continuing high cost of labor as an element in the costs of production and because most invention in our society is designed to lighten the arduousness of work. For example, available evidence suggests that the invention of the mechanical cotton picker was motivated not by changes in the wage level relative to interest rates but by the great amount of labor required to harvest the cotton crop. John Rust, the inventor of the cotton picker, worked with his brother on a cotton plantation and was compelled to devote long hours of backbreaking labor to picking cotton by hand. Being mechanically minded, he sought and discovered an easier way of doing the job. In this case, as with many great inventions, the desire to save labor and to make the job easier was the dominant motive unrelated to changes in the price of labor relative to the price of capital.

A high rate of invention requires an economic environment in which rapid technological advance is viewed as a virtue rather than a vice. Union organization, however, has erected substantial obstacles in the path of technological progress. Such restrictive policies not only may retard the introduction of known improvements but also may discourage potential invention. It seems probable that research in the development of new building techniques has been discouraged because inventors realize that any new laborsaving methods which might be discovered would have to contend with the organized hostility of union labor. The extent to which invention has been stifled in this industry is indicated by the contemporaneous existence of high labor costs side by side with time-consuming antiquated methods. Undoubtedly the prime difficulty in the building industry is one of the actual commercial application of new improvements rather than in lack of ideas. It is important to recognize, however, that the rate of discovery of new ideas is in part a function of the rate of application of those already known but not yet in use. Every new idea which labor unions have obstructed or buried might have been the mother of ten new ideas not yet born.

It is difficult to estimate the effect which such tactics by unions may have on the future pace of technological discovery in industry at large. On the whole, the more enlightened union leaders recognize opposition to invention is, in the long run, contrary to the best interests of labor. However, in particular industries where craft unions are strongly en-

trenched and desire to protect the highly specialized skills of their members at all costs, unions may erect a substantial barrier in the path of invention.

WAGE PRESSURE AND MECHANIZATION

A major means of improving efficiency and saving labor in our industrial economy has been the machine. Machines, however, are costly, and businessmen will normally invest in laborsaving machinery only if the investment gives promise of paying for itself in a reasonable period of time. A laborsaving machine pays for itself in terms of manpower saved, reduction in spoilage, and so forth. The higher the wage rate of the labor which can be displaced by the machine, the larger the savings which the machine will effect and the more attractive its purchase becomes.

Businessmen are not uniformly alert to the advantages of using laborsaving machinery. There are many laborsaving machines which are known today and which may be in use in some companies but which are not utilized by others, either because their labor costs are not high enough to warrant the expenditure on machinery or because management is inefficient and has not sufficient initiative to look around and find out how its costs might be lowered. Undoubtedly a substantial improvement in the level of industrial efficiency could be obtained if inefficient employers were induced to bring their production methods into line with the best in the industry.

Wage pressure may exert this influence in certain circumstances. Wage increases are likely to be most effective as a stimulus to substitution of machinery for labor in firms where wages, prior to the wage increase, had been low, and management relied on low wages rather than efficient methods to compete. Employers are most likely to be sensitive to wage increases in firms where labor costs constitute a large proportion of total costs and where competition is keen and profit margins are slim. In this connection it should be observed that although in companies operating on low-profit margins, wage increases frequently provide a spur to improved efficiency, an increase in material costs, or insurance rates, or general overhead may have precisely the same effect. The increase in costs compels management to look around in the industry and bring its own plant up to date with others.

Not all machinery is introduced because of an increase in labor costs. As a matter of fact, it is possible that in our dynamic economy only a small part of the substitution of machinery for labor which occurs is

attributable to changes in wage rates. The reason is that invention is continuously bringing onto the market new machines and devices which have a high laborsaving potential and which, in many cases, would be profitable to use even at a much lower wage rate. For example, when the "semiautomatics" were introduced in the bottle industry, the glass bottle blowers union attempted to compete with the machine by accepting a 45 per cent reduction in the hand price on fruit jars, but this substantial wage cut proved ineffective, and the machine continued to be introduced. Here is an example of a machine which would have been profitable to use even at a wage level 45 per cent lower than that which prevailed when it was introduced. Obviously its introduction did not depend upon wage increases. Many other laborsaving machines fall in the same category. The point is that while wage increases accelerate the introduction of some machinery, a large part of the new machinery which is applied in industry depends upon research and invention which is not significantly influenced by changes in wage rates.

The greatest stimulus to improved efficiency in industry would be provided by liberalization of our federal tax law provisions relating to the period over which the cost of equipment may be depreciated for tax purposes. At the present time, if a machine has a life of 20 years, a manufacturer who installs such a machine in his plant can "write off" or deduct the cost of the machine from his income during the life of the machine. This means that he has to wait 20 years to depreciate the entire cost of the machine. Businessmen would like freedom to depreciate the cost of machinery more quickly—say, over a period of 5 years. If this could be done, there would undoubtedly be a large increase in purchases of machinery, since employers could get their money back out of depreciation allowances in a short period of time and would not be faced with the present situation of tying up cash in fixed assets over a long period of years. The United States Treasury has evidenced some sympathy with this viewpoint, and it is possible that some liberalization of the law governing depreciation will be forthcoming from Congress.

UNION WAGE MOVEMENTS AND INDUSTRIAL EFFICIENCY

Mention has already been made in an earlier chapter that union organization has tended to accelerate the adoption by management of two important wage practices. The first is uniformity in wage rates. This is the result of the spread of multiunit bargaining and of union interest in the stabilization on an industry-wide basis of hourly earnings, piece rates, or labor costs. There is now double pressure for uniformity in rates—from

competitors and from labor itself. The second practice is simultaneity in wage adjustments. This is a by-product not only of multiunit bargaining but also of the growing importance of leader-follower relationships in wage policies. Company executives tend to feel that wage adjustments should not be made unless other companies are making them at more or less the same time. As a result of these two practices, wage increases tend to be made more or less simultaneously and of a fairly uniform amount in a large number of industries. Obviously, the effect of a wage increase upon efficiency may be quite different when the wage increase is made in only one firm in an industry and when it occurs throughout an industry. What then is the likely effect of these union wage practices on industrial efficiency?

Favorable Effects on Efficiency. The policy of uniformity in wage rates in an industry may hasten the spread of improved methods of production from the more progressive firms to those that are less efficient. In most industries, there are three or four large companies that do the majority of the business and which set the pace for the technological development of the industry. If unions compel the smaller firms to pay the same rates as the larger firms, the small companies will have to keep abreast of the latest developments if they are to survive.

Unfavorable Effects on Efficiency. While uniformity in wage rates probably contributes to an improved standard of industrial efficiency, simultaneity in wage increases probably lessens the effectiveness of the stimulus which normally is forthcoming from wage pressure. If wage rates are raised generally in an industry, the individual employer, knowing that his competitors are faced by the same rise in costs as he, is much more likely to attempt to pass on the increased labor costs in the form of higher prices to consumers, in the expectation that competitors will follow a similar course, than if he alone had been compelled to grant a wage increase. Price increases are more likely to follow industry-wide changes in wage levels than changes within a single firm, because the average businessman, although he has a fair conception of the demand curve for his individual product, has either no notion of a demand curve for the product of the industry or else assumes that it is inelastic within the relevant range. Thus simultaneous union wage changes facilitate shifting the burden of higher labor costs to the consumer. To the extent that this is accomplished, the inducement afforded to management to increase its efficiency is lessened, and as a consequence neither mechanization nor technological changes of other kinds may follow the wage increase. Profits may not be cut at all by the wage adjustment but merely be kept from rising as fast as they otherwise would have in good times.

EFFECT OF UNION ORGANIZATION ON TECHNICAL EFFICIENCY

In many firms prior to the advent of union organization, management depended upon payment of low wages to keep costs down to a competitive level. As long as this effective means could be relied upon, productive efficiency tended to be ignored and suffered as a result. Union organization, by removing wage rates from the competitive sphere, can produce a desirable change in emphasis from wage levels to production costs and thereby diminish the divergence in technical standards between the least efficient and most efficient firms in the industry. If the effect of union wage pressure is to make inefficient managers better imitators, the general level of efficiency in industry will benefit. And, of course, to the extent that the least efficient firms are eliminated, an automatic increase occurs in the statistical average efficiency of firms left in industry.

Union organization, by raising wages in union plants, increases the cost advantage of nonunion competitors and compels union firms to increase efficiency in order to remain in competition. Moreover, the presence of a strong union with alert shop stewards compels management to justify many production methods and rates and therefore encourages a more careful examination of costs and production policy. Although union wage pressure probably produces a small net gain in labor efficiency, the difficulties encountered by union plants in holding their markets indicates that the gain is insufficient to offset the increased price of labor.

Union influence upon technical efficiency has a time dimension. Probably the greatest increase in efficiency is forthcoming when an industry is newly organized. Then the wastes may be more obvious and abundant, but after a while when the backlog of waste is largely exhausted, a point of diminishing returns must be reached. Furthermore, as unionism itself matures and its power in industry grows, it is more likely to bring its own wastes to industry. As a general rule, the more strongly entrenched is the position of a union in an industry, the less it is concerned with the efficiency of the individual firms under its jurisdiction. Consequently even though the possibilities of raising the level of industrial efficiency are considerable, there is room for skepticism regarding the contribution which unionism will make in this respect in the future. Managements in the railroad, printing, and clothing industries have been subjected to union wage pressure over a long period, but it is doubtful whether they are conspicuously more able, thorough, and alert to tech-

nological developments than managements in other industries which do not operate under union pressure.¹⁵

Pressure on wage costs, by and large, probably stimulates increased efficiency. If this were all that were involved in the impact of union organization, we might predict a general improvement in industrial efficiency. But as has already been pointed out in detail in Chapter 6 a major aspect of union organization has been the system of industrial jurisprudence which it has imposed on organized firms. As a result, at the very time that labor costs are being raised and maximum flexibility of operation is required to offset the higher level of costs, management has found itself hampered by union rules and restrictions in taking steps which it considers necessary to reduce costs. The urban transit, railroad, and milk delivery industries are examples of industries which have found efforts to improve efficiency impeded by union rules. In some other industries, store managers, working foremen, and other employees who exercise some managerial and supervisory functions are themselves members of unions and thus render it more difficult for management to ferret out waste and to penalize inefficiency.

SUMMARY

On the whole, union organization will probably tend to diminish industrial efficiency, rather than improve it. The growing strength of unions presages a multiplication of union rules and restrictions which will limit the freedom of the employer to eliminate costly operations and to introduce improved techniques of production. There is no immediate prospect of eliminating the many needless make-work rules which are found at present in organized plants in various industries. If the volume of unemployment were to grow appreciably, such make-work rules would undoubtedly become even more prevalent. Although union wage pressure may afford some stimulus to invention and to technological progress in its broader aspects, it is doubtful whether general union wage adjustments occurring more or less simultaneously over a broad area of industry will provide much stimulus to the rate of mechanization.¹⁶ Moreover,

¹⁵ S. H. Slichter, "The Responsibility of Organized Labor for Employment," *American Economic Review*, Vol. XXXV (1945), Supplement, p. 199.

¹⁶ A recent survey conducted in 1953 by the *American Machinist* concludes: "Not since the depression days of the 1930's has the average age of machine tools risen so rapidly as it has in the past 4 years. Today, 55% are ten years old or older, compared with 43% just before Korea." (See *Business Week*, January 2, 1954, p. 7.) The results of the above survey, if accurate, suggests that the postwar years of strong union wage pressure have not materially increased management's incentive to replace old machinery with new.

whatever stimulus is forthcoming from this source will tend to be offset by the restrictive influence of union policies which retard the rate of introduction of laborsaving methods and machinery.

Despite the fact that the leaders of organized labor condemn opposition to laborsaving machinery, the policy still is practiced by individual unions. It is easy for leaders to generalize in sweeping terms about the futility of attempting to stem the advance of progress, but if the individual worker sees in his union a possible barrier to introduction of a new improvement which threatens his job, he is likely to use it. Thus, the lasters' union fought the lasting machine, the flint glass workers the lamp chimney machine, the stone cutters the stone planer, the granite cutters the hand-surfacing machine, the painters the paint-spraying machine, the street railway workers the one-man car, the cigarmakers the leaf-stripping machines, and the musicians mechanical music devices.¹⁷ Union organization has not altered the feelings or attitudes of the average worker toward laborsaving machinery, but it has given him the strength to resist or retard technological change, whereas previously he could only voice a weak protest.

Management by and large is interested in reducing costs and improving the quality of the product. These twin objectives of employers ordinarily place management on the side of efficiency in the collective bargaining process. Unions—at least where nonunion competition is not a major problem—are interested primarily in improving earnings and working conditions and in introducing order, tenure, and stability into the employment relationship. These objectives have important value from the point of view of the community and society, but we should recognize that in many cases they will conflict with productive efficiency. As unions grow in strength, there will be a tendency for these union objectives to extend into certain spheres, now regarded as fields of exclusive managerial prerogative, with a resultant diminution in efficiency. For example, in Europe, there has been a development of so-called co-determination by unions and management, in which unions are given a voice in the making of many decisions affecting the organization of the productive factors. If such a development takes place in this country and management must consult with unions as to whether or not laborsaving improvements are to be introduced, there will undoubtedly be a diminution in the rate of technological progress in our economy.

Union policies which limit technological progress have an unfavor-

¹⁷ S. H. Slichter, *Union Policies and Industrial Management* (Washington, D.C.: Brookings Institution, 1941), p. 207

able effect both upon the level of industrial efficiency and upon the volume of investment and employment. Mechanization is important to our economy, not only because it is normally an essential component of plans to reduce cost but also because mechanization requires purchase of capital equipment. And investment of this character supplies much of the motive power for our economy. Union efforts to retard mechanization, therefore, strike at a form of technological progress which affords the greatest stimulus to investment and employment.

However, it would be unfair to weigh the effect of unions upon industrial efficiency solely in terms of costs, maximum output, dollars and cents. Industry produces men as well as goods. An economy which is efficient in terms of achieving maximum product at minimum cost may not be so efficient if the concept of "cost" is enlarged to take full account of human costs. Managerial accounting does not include the social losses of the community. For example, in making a full evaluation of the consequences—both economic and social—of union efforts to curb excesses of technological change, it should be recognized that, in the past, unrestricted introduction of laborsaving machinery may have resulted in a rate of progress which from the social¹⁸ point of view was too rapid—account being taken of the dislocation of communities, the loss of skills, and the idle manpower which the flood of improvements left in its wake. Viewed in this light, union attempts to control the rate of technological development may make for a better approximation to an "optimum" rate of introduction of improvements in technique.

Despite the fact that its indirect repercussion upon new investment, and thus upon aggregate employment, may be unsalutary, adoption of some sort of program designed to lessen the unemployment, the dislocation and the human suffering that are caused by unregulated technological change appears to be definitely written on the agenda of industrial democracy. America is marching along the road of social reform, and the control of technological change is a step along that road which cannot be retraced. The regulation of industrial progress through government law and union rule in the interest of providing greater security to the worker seems to be an objective which most modern economies are approaching. In seeking to attain this objective, however, America should recognize that the price of such increased security may be a diminution in industrial efficiency and a curtailment of private investment.

¹⁸ For a discussion of the effect of technical progress on private and social net product, see A. C. Pigou, *Economics of Welfare*, (3d ed.; London: Macmillan & Co., Ltd., 1929), pp. 190 ff.

QUESTIONS FOR DISCUSSION

1. To what extent is the human factor the key to productive efficiency in mass-production industries? Is the presence of a union in a plant likely to simplify or render more difficult the adoption of a sound program of "human engineering"?
2. Discuss the various possible effects of union wage pressure on the level of industrial efficiency. Are the consequences of union wage adjustments likely to differ from the effects of a wage increase in a single firm in an unorganized industry?
3. Discuss the future prospects for union-management co-operation. Under what circumstances has union-management co-operation been most successful in the past?

SUGGESTIONS FOR FURTHER READING

BLOOM, GORDON, F. "Note on Hicks's Theory of Invention," *American Economic Review*, Vol. XXXVI (March, 1946), pp. 83-96.

A critique of the Hicksian theory of invention based upon results of field research.

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Statement of the theory which gives major importance to wage pressure as a stimulus to laborsaving invention.

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An analysis of how collective bargaining can be utilized to obtain greater productivity in industry.

UNITED STATES DEPARTMENT OF LABOR. "Implications of Automation," *Monthly Labor Review*, Vol. LXXVIII (May, 1955), pp. 519-27; "A Review of Automatic Technology," *Monthly Labor Review*, Vol. LXXVIII (June, 1955), pp. 637-44.

A series of articles on the nature and significance of automation.

PART V

Governmental Wage Regulation and the Shorter Workweek

Chapter 17

GOVERNMENTAL REGULATION OF WAGES

Governmental wage regulation in the United States has been largely confined to the establishment of minimum wages and maximum hours, except in times of emergency. In such times, as during World War II and the Korean war, the government has regulated the terms of compensation of the vast majority of the labor force. In this chapter we shall examine both minimum wage and emergency wage-regulating legislation, and analyze also some of the economic effects of such laws.

FEDERAL MINIMUM WAGE REGULATION

Federal regulation of minimum wage and maximum hour legislation received its first big impetus under the National Industrial Recovery Act (NRA) of 1933. Declared unconstitutional 2 years after its enactment, the NRA established codes covering 20 million workers under basic minima that ranged in general from 30 to 40 cents an hour. In industries employing 55 per cent of all codified employees, the hourly minimum was 40 cents. Although the NRA was short-lived, it did result in a significant increase in wage and hour standards. In addition, it provided valuable experience for the administration of later legislation.

THE FAIR LABOR STANDARDS ACT

The basic minimum wage law of the land is the Fair Labor Standards Act, or Wage and Hour Law. It was first passed in 1938 and substantially amended in 1949 and again in 1956. The original 1938 Act required that employees within its jurisdiction were to receive a minimum wage of not less than 25 cents an hour beginning October 24, 1938; 30 cents an hour beginning October 24, 1939; and 40 cents an hour beginning October 24, 1945. The Act also provided machinery whereby the

40-cent objective could be achieved prior to 1945 through recommendations of industry committees composed of labor, management, and the public. Because of wartime wage increases, nearly all workers covered by the Act were receiving 40 cents per hour or more before the statutory requirement took effect. In 1949 the statutory minimum wage was raised to 75 cents an hour, in 1956 to \$1.

The Fair Labor Standards Act also set maximum-hour requirements. After October 24, 1938, all time worked over 44 hours, within 1 week, had to be paid at the rate of time and one half; after October 24, 1939, the straight-time week was reduced to 42 hours, and after October 24, 1940, to 40 hours.

In addition, the 1938 Act severely limited, and the 1949 amendments virtually prohibited, the use of child labor in industries under the jurisdiction of the Act.

The Fair Labor Standards Act of 1938 did not cover all workers engaged "in commerce or the production of goods for commerce." In addition to employees working in intrastate establishments which are beyond the jurisdiction of the federal regulation, the Fair Labor Standards Act of 1938 excluded numerous groups of workers from either the minimum wage provisions, the overtime provisions, or both. The exemptions under both wage and overtime provisions included workers (1) in agriculture; (2) in certain agricultural processing operations carried on in the "area of production"; (3) in retail and service establishments which are predominately intrastate; (4) in fishing; (5) seamen; (6) in air and interurban transport; (7) in weekly papers where the subscription is less than 3,000; (8) in telephone switchboard operations in public telephone exchanges with less than 500 stations; and (9) in executive, administrative, and professional occupations as defined by the administrator of the Act.

Exemptions from only the overtime provisions of the Act were provided for over-the-road trucking and railway and express company employees, for employees engaged in milk pasteurization and butter making, ginning and compressing of cotton and processing of cottonseed, and in the purification of raw sugar and molasses. The Act also provides for limited exemptions from overtime provisions for various types of agricultural processing and also permits a limited 14-week exemption for industries determined by the administrator of the Act to be seasonal in character. Authority was also granted by the 1938 Act to the administrator to provide exemption from minimum wage provisions for learners, apprentices, handicapped workers, and messengers.

When the 1949 amendments were passed, the minimum wage was

raised from 40 to 75 cents per hour, but the benefits of the Act were withdrawn from many thousands of workers. This was done primarily by redefining the extent to which the Act covered establishments, partially intrastate and partially interstate in character, and by granting additional exemptions in retail trade. The exact number who were excluded by these two broad additional exemptions is not clear, but it probably was several hundred thousand at least. Additional thousands who work in logging operations and processing of agricultural products also lost the coverage of the Act.

Besides these exemptions, the 1949 amendments removed an estimated 20,000 workers from the Act by new telephone exchange and local newspaper exemptions; 30,000 by new exemptions for commercial laundries; and 15,000 by new exemptions for employees of nonprofit irrigation systems. On the other hand, an estimated 105,000 air transport workers and 50,000 fish cannery employees were brought under the coverage of the wage provisions of the Act but remained exempt as to hours of overtime. The coverage of the Act was not altered by the 1956 amendments.

The Act also provides a limited exemption from the overtime provisions for employees covered by collective agreements which guarantee annual employment. As amended in 1949, the annual employment guarantee may be from 1,840 to 2,080 hours per year, for not less than 46 workweeks of at least 30 hours per week. This provision represents the most substantial incentive offered by the federal government to employers to encourage establishment of annual wage plans and similar guarantees aimed at stabilizing workers' income.

Table 23 shows that more than one half of the nongovernmental labor force is not covered by the Fair Labor Standards Act. In some areas, those excluded are covered by collective bargaining or by other legislation.

1. Approximately 4 million intrastate workers are covered by state minimum wage legislation, as will be discussed below.

2. The sugar act 1937 extended minimum wage protection to a small segment of the field of agriculture by providing that sugar producers cannot receive benefits under the (Sugar) Act unless workers are paid rates not less than those determined by the Secretary of Agriculture to be fair and reasonable.

The remaining intrastate and agricultural workers lack any statutory minimum wage coverage and are of course generally the least well organized into unions and are paid wages most likely to be affected by a minimum wage law.

TABLE 23
COVERAGE OF THE FAIR LABOR STANDARDS ACT, 1956
(In Thousands)

INDUSTRY	TOTAL EMPLOYMENT*	EMPLOYEES COVERED	EMPLOYEES NOT COVERED		
			Not in Inter- state Commerce	Executive, Administrative, and Professional	Specifically Exempt
<i>All industries.</i>	48,051	23,976	13,609	4,097	6,369
Manufacturing.....	17,292	15,448	86	1,161	597
Mining.....	817	747	19	49	2
Construction.....	2,697	614	1,867	132	84
Wholesale trade.....	2,895	1,693	262	356	584
Retail trade and eating and drinking places.....	7,656	230	5,558	728	1,140
Finance, insurance, and real estate.....	2,108	1,048	414	316	330
Transportation, communication, and utilities.....	4,371	3,441	286	415	229
Services and related industries, <i>n.e.c.</i>	5,071	741	2,995	883	452
Agriculture, forestry, and fisheries.....	3,123	14	101	57	2,951
Domestic service.....	2,021	.....	2,021	.....	.....

*Excludes government employment, proprietors, and self-employed persons
SOURCE: U.S. Department of Labor; National Industrial Conference Board, Inc.

Superminimum Wages

In three areas, federal minimum wage legislation has gone beyond the Fair Labor Standards Act. The most extraordinary law of this character applies to pilots and co-pilots employed on airlines, holding certificates entitling them to make regularly scheduled flights. This law went into effect in 1934 and is now contained in Section 401 (L) of the Civil Aeronautics Act of 1938. It provides that pilots shall receive not less than a rate based upon a formula composed of base pay of \$1,000–3,000 per year, plus hourly pay, plus mileage pay, with bonuses for night flying and for flying over certain terrain; that co-pilots shall not receive less than their October 1, 1933, rates, which averaged about \$190 monthly; and that no pilots or co-pilots shall fly more than 85 hours in 1 month. Since the introduction of faster planes automatically increases mileage pay, a pilot with 8 years' experience, flying a Lockheed Constellation plane, 85 hours per month, one half day and one half night, must be paid by law not less than \$10,854 per year! Undoubtedly, this is the most generous "minimum wage" law in the history of the world. And, as planes improve and fly faster, up goes this magnificent minimum. Other airline employees, including flight crew members, have no such protection.

The second superminimum wage law, known as the Davis-Bacon Act, was first passed in 1931. As later amended, it requires contractors engaged in construction work, valued at \$5,000 or more, and paid for by federal funds, to pay at least the prevailing minimum wages to all construction employees.

The Secretary of Labor determines prevailing minimum rates for the various crafts under the Davis-Bacon Act procedure. As interpreted by secretaries since 1931, "prevailing" is always synonymous with "union." Building-trades unions have found the Davis-Bacon Act a valuable tool to prevent undercutting of their wages and to assist the extension of the union rate. For not infrequently, the union rate has been determined to be prevailing in a locality not even unionized but in addition paying considerably less than the union rate which actually prevails in a large city some miles away.

The third superminimum wage law is the Public Contracts or Walsh-Healey Act which was enacted in 1936, two years prior to the passage of the Fair Labor Standards Act, as a means of filling part of the gap left by the demise of the NRA. The Walsh-Healey Act provided for the following basic conditions which must be observed on all government-let contracts in excess of \$10,000:

1. Not less than the prevailing minimum wage determined by the Secretary of Labor shall be paid to employees working on such contracts;
2. No such employee shall work over 8 hours per day or 40 hours per week except as the Secretary of Labor may permit overtime at a rate of not less than time and one half the basic rate;
3. No male person under 16 and no female person under 18 shall be employed on a contract;
4. Convict labor shall not be employed on government contracts; and
5. Work on government contracts shall be performed under conditions that are safe and sanitary.

After the Fair Labor Standards Act was passed, the Walsh-Healey Act was dormant for a time, but it was re-activated by the Secretary of Labor in 1948 and has been kept active since then. Like the Davis-Bacon Act, the Walsh-Healey Act goes beyond minimum wage regulation by establishing "prevailing" minima. By mid-1957, Walsh-Healey prevailing rates had been established for approximately twenty industries. In all cases, the prevailing minima was set above the Fair Labor Standards Act minimum of \$1 per hour.

Also, as in the Davis-Bacon situation, the Secretary of Labor has historically, and continues to, interpreted prevailing to mean the union rate where such existed to any extent at all. This has had the effect of reducing nonunion competition and pressure on unionized plants or industries. For example, the establishment of the United Mine Workers wage structure as the prevailing Walsh-Healey rate in 1956 eliminated the nonunion and strip mines as serious competitors for sale of coal to the Tennessee Valley Authority.

STATE MINIMUM WAGE LEGISLATION

State minimum wage laws are actually considerably older than any federal law. The state laws were originally conceived as a means of protecting women and children against unfair and dangerous conditions. This was in line with the concept that women and children needed special protection, but men did not. The fact that the American Federation of Labor was opposed to minimum wage laws for men because of its traditional fear of state intervention also encouraged legislators to confine such laws to women. The first domestic wage law was passed by Massachusetts in 1912 as the result of persistent agitation by trade-union women and social workers. By 1923, seventeen states had enacted minimum wage laws protecting women and children. But the movement was doomed to a temporary setback, for in that year in the *Adkins* case¹ the Supreme

¹ *Adkins v. Children's Hospital*, 261 U.S. 525 (1923).

Court declared that all mandatory state minimum wage laws were unconstitutional under the Fourteenth Amendment.

Encouraged by the favorable climate of the New Deal, a number of states passed minimum wage laws in spite of the court decision in the *Adkins* case. Again in 1936 the Supreme Court declared such legislation unconstitutional. Three months later, however, the Supreme Court reversed itself and gave such state laws its approval.²

Nevertheless, state minimum wage regulation is neither universal nor is judicial approval of such wage regulation by state courts always certain. As of January 1, 1958, only twenty-eight states, Alaska, Hawaii, Puerto Rico, and the District of Columbia had a minimum wage law on their books. An additional state, New Mexico, enacted a law in 1955, but it was invalidated by the state courts.

In actual fact the protection afforded by state minimum wage laws covers considerably less territory than the twenty-eight states and the four territories. In four states, there are no minimum rates in effect despite the existence of a law; in five additional states, the minima were set prior to 1949, and so low that they have no relation to existing conditions; and in two other states, recently established minima were declared invalid by state courts. So just seventeen states, the District of Columbia, Hawaii, Puerto Rico, and Alaska may be realistically described as having minimum wage laws actually in effect.³

The number of persons covered in the states with effective minimum wage laws may be estimated at approximately 6 million, of whom almost 2 million are also covered by the Federal Fair Labor Standards Act.

Procedures for Setting State Rates

Laws in nine states, Alaska, and Hawaii, like the FLSA, expressly fix the amount payable as the minimum wage. (See Table 24.) In three New England states with a statutory minimum, the laws also authorize rate fixing under the wage-board procedure which is the method generally

² *West Coast Hotel Company v. Parrish*, 300 U.S. 379 (1937).

³ The seventeen states with minimum wage rates that have been adopted or revised since 1949 are as follows: Arizona, California, Colorado, Connecticut, Idaho, Kentucky, Massachusetts, Nevada, New Hampshire, New Jersey, New York, North Dakota, Oregon, Rhode Island, Utah, Washington, and Wyoming, but under the minimum wage laws of these five states—Arkansas, Illinois, Pennsylvania, South Dakota, and Wisconsin—the most recent rate revisions occurred before 1950. And the four states which have minimum wage laws in which no rates at all are in effect are Kansas, Louisiana, Maine, and Oklahoma. The Minnesota Supreme Court has set aside both the retail merchandising order (November, 1955) and the public housekeeping order (January, 1956), while the Franklin County Court of Appeals in Ohio held invalid the only postwar wage order—for food and/or lodging places.

utilized in the other states, the District of Columbia, and Puerto Rico.

Briefly, the wage-board procedure involves the following steps: (1) survey of the occupation by the administrative agency to ascertain whether a substantial number of women and minors are paid "oppressive" or "unreasonable" wages; (2) appointment of a wage board; (3) transmission of the wage board's recommendations to the administrative agency; (4) public hearings; and (5) issuance of the wage order.

A wage order may be revised on the labor commissioner's initiative, or on petition of citizens in the state. The procedure for revising it is usually the same as for issuance of the original order.

The advantage of a statutory rate is that it establishes immediate, widespread protection. But this method has been characterized as "inflexible," since legislative action is required to adjust the rate to changing economic conditions, and it is impossible for one blanket rate to take account of individual industry conditions. A quicker response to movements in the cost of living and a greater sensitivity to problems of a particular industry have caused the wage-board laws to be designated as "flexible."

Flexibility, combined with wide coverage, appears to be the goals in the states which provide for both a statutory minimum and the wage-board procedure. As an additional safeguard against a static rate, the Massachusetts law was amended in 1952 to require the commissioner of labor to make a biennial review of all wage orders.

Coverage of State Laws

Potential coverage of state minimum wage laws is broad, including virtually all industries except agriculture and domestic service. Actual coverage is much narrower, as it is dependent upon the issuance of a wage order in all but the eight jurisdictions with a statutory minimum. The states vary widely in the number of industries covered by wage orders. It may be only two, as in Arizona, or it may be several, as in California, New York, Oregon, and Washington. Industries in which wage orders are most often found are hotels and restaurants, laundries, dry-cleaning establishments, and retail trade.

State minimum wage laws were originally designed to give protection to women and minors only. The federal wage and hour law, however, set the example of covering men also and today ten jurisdictions follow suit.⁴

⁴ Alaska, Connecticut, Hawaii, Idaho, Massachusetts, New Hampshire, New York, Puerto Rico, Rhode Island, and Wyoming.

TABLE 24

STATE STATUTORY MINIMUM WAGE LAWS, JANUARY 1, 1958

State or Territory	Date Law Was Last Amended *	Statutory Minimum (Cents per Hour)	Explanation
Alaska	1955	125	..... . . . .
Connecticut	1957	100	Wage orders may set rates equal to or exceeding the statutory minimum
Hawaii.....	1955	100	.. . . . .
Idaho.....	1955	75	.. . . . .
Massachusetts.....	1957	90	Under wage orders, minimum rates of 60 cents for service occupations and 85 cents for other occupations may be set
Nevada.....	1955	75-87½	Higher rate for women; lower rate for girls (under 18)
New Hampshire.....	1955	65-75	65 cents for pin boys and ushers; 70 cents for laundry employees, nurses' aides, or practical nurses, 75 cents for other occupations†
Rhode Island.....	1957	100	..... . . . .
Wyoming.	1955	75	..... . . . .

NOTE. All these laws apply regardless of sex, except the Nevada statute, which applies to women and minor girls only. Arkansas and South Dakota also have minimum wage laws with statutory rates, but there have been no changes enacted since 1943 in either. The minimum in Arkansas is \$1.25 a day (8 hours a day, 6 days a week) for experienced women. In South Dakota it is \$15 a week (10 hours a day, 54 hours a week maximum) for women in cities with population of 2,500 or over, \$12 a week elsewhere.

*Idaho, New Mexico, and Wyoming passed minimum wage laws for the first time in 1955, all of the statutory rate type, but the New Mexico law has been declared invalid.†The commissioner has the authority to increase the statutory rate through the issuance of wage orders in occupations not exempt by law. Such wage orders must be limited to women and minors, though men are also covered by the statutory rate.

SOURCES: U.S. Department of Labor; National Industrial Conference Board, Inc.

How Much Do State Minimums Guarantee?

Minimum wage legislation was enacted or amended in 1956 in all the jurisdictions with statutory rates. In fact, for the first time since before World War II, new minimum wage laws were passed; i.e., in Idaho, New Mexico, and Wyoming. (The law in New Mexico, however, which was of the statutory type, has since been declared invalid.) The rates—with exceptions for specified occupations—or areas—varied from 75 cents to \$1.00 per hour, with only Alaska topping the FLSA minimum of \$1.00. The hourly rate most frequently found under wage orders since 1949 is 75 cents, with \$1.00 becoming more common after the 1956 amendments made \$1.00 the federal minimum.

Often, state minimum wage orders are not in terms of cents per hour but are on a weekly basis instead. They guarantee a full week's pay to employees who have worked beyond a specified minimum number of hours but who may not have had the opportunity to work the maximum specified. All the wage orders in the District of Columbia are of this type. For example, in clerical and technical occupations the minimum rate is \$32 for a workweek ranging from 32 to 40 hours.⁵

State wage and hour laws generally apply to all business operations within the state, whether or not they are also covered by the Federal Fair Labor Standards Act. When the state laws set higher standards, these higher standards must be observed.

Of course, in the states where the laws become outdated, the federal law affords the only protection—but it does not cover most industries where an effective state law can be most felt—e.g., service industries. Examples of obsolete state laws are those in the states of Arizona where existing orders provide minima of from \$18–26 per week; or Illinois where the six orders in effect call for minimum hourly rates from 35 to 55 cents.

MINIMUM WAGES AND EMPLOYMENT

Minimum wage legislation is generally advocated on four grounds:

1. To eliminate poverty caused by the existence of substandard wages which do not afford workers a minimum decent standard of living;
2. To eliminate unfair competition based upon substandard wages which drags down the wages paid by other firms;
3. To increase the purchasing power of lower-income workers; and

⁵ The preceding section leans heavily on Miriam Civic's article, "Minimum Wages on the March," *Business Record*, XIII (March, 1956), pp. 114–9.

4. To provide a floor for maintaining a high wage structure in depressed periods.

These arguments ran through the hearings preceding the enactment of the Fair Labor Standards Act of 1938 as well as those pertaining to the 1949 and 1956 amendments. The fourth, a quite different point from the first three, was especially prominent in trade-union arguments.

If minimum wage legislation is to be successful in alleviating poverty, curtailing unfair competition, and increasing purchasing power, it must not have adverse effects on employment. What are the results of minimum wage legislation on employment in theory and in practice?

Theoretical Effects of Minimum Wage

Minimum wage legislation means higher wage costs to the individual employer affected by such legislation. Economic theorists tell us that if an employer finds that labor has become more expensive, he will try to economize in its use or to get more work out of his labor force. There may be some workers who can be dropped from the payroll simply by rescheduling work or changing assignment of duties. In some cases, it may be possible to eliminate jobs which no longer "pay" at the higher wage rate. The most effective way of reducing labor costs is, of course, through substituting machinery for labor. The lower the wage paid prior to the establishment of the minimum wage and the greater the increase in costs imposed by such legislation, the greater the incentive to the employer to introduce laborsaving machinery.

In many cases the process of mechanization will involve purchase of machinery which was already known and in use in the industry but which was not adopted by the low-wage firm because the machines were not profitable to introduce at a low-wage level. Sometimes, however, the wage increase will cause employers to introduce machinery which would have been profitable to introduce even at a lower-wage level, but which management failed to adopt because of inefficiency and reliance on payment of substandard wages as means of competition. In other words, imposition of a minimum wage may provide the "shock" which compels inefficient management to look around in the industry and bring its production methods in line with more efficient firms in order to survive. This will involve not only adoption of laborsaving machinery but also methods and layouts which will reduce overhead, material costs, insurance expense, and other expenditures. It should be remembered that introduction of laborsaving machinery is sometimes a long-term process. Some employers may not be able to utilize the newest machinery in an antiquated plant and may have to delay purchase of machinery until they

can move to a new location; other employers may try to get a few more years out of old equipment before making the large capital expenditure required for modern machinery. As a result, the displacement of labor through introduction of laborsaving machinery may not occur until several years after the imposition of the minimum wage, and if meanwhile business increases, there may be no unemployment observable at all.

Another avenue by which a minimum wage may react upon employment is through the effect of the wage increase on price. Large companies frequently have large advertising budgets and are able to obtain a higher price for their products by building up the idea of quality in consumers' minds. Small companies, on the other hand, must often compete primarily on the basis of price. If a minimum wage raises the labor costs of smaller concerns, it puts them at a substantial competitive disadvantage. If they raise prices to compensate for the increase in costs, some part of their business will tend to shift to their larger competitors, and they may be eventually forced out of business. If this result occurs, the total volume of employment in the industry may be lower after the shift of business is effected, even though some labor displaced in small companies will find employment in the large companies, for the larger companies are likely to be more mechanized and a dollar's sales in such companies will require employment of a smaller amount of labor than in the low-wage plants.

It should be noted that if a minimum wage law produces unemployment, the incidence of unemployment may be expected to fall most heavily upon those with the least skills—that is, upon those employees whose wages have been below the legal minimum and who have the most difficulty in finding jobs. Thus, one cost of a minimum wage may be an expansion of the hard core of unemployment.

Minimum wage legislation affects not only employer efficiency but employee efficiency as well. Workers who in 1938 received less than the minimum of 25 cents per hour obviously had difficulties in making ends meet. Similarly, in 1949, workers who earned less than the 75 cents an hour minimum or \$30 for a 40-hour week had difficulty in providing adequate food, clothing, shelter, and medical care for themselves and their families. Establishment of a minimum wage which eliminates substandard wages is likely to have some beneficial effect on the health, efficiency, and morale of workers which may be reflected in improved man-hour production. Also the higher cost of labor makes employers more labor conscious and is likely to cause management to devote more time and effort to training workers and selecting new employees more

carefully. The net result may be better productivity which will tend, in part, to offset the higher wage costs so that the rise in unit labor costs will be less than the rise in wage rates. To the extent that this is true, the effect of the wage increase on employment will be lessened.

In general, economic theorists conclude that imposition of a minimum wage will tend to produce some unemployment in the individual firm affected by such legislation. The amount of the unemployment will vary from firm to firm, depending upon the magnitude of the wage increase, the importance of labor costs relative to total costs, the ability of the employer to reduce costs other than labor costs, the extent to which business of the firm falls off if it increases prices, the effect of the wage increase on man-hour output, and the extent to which the company introduces laborsaving machinery. As has already been mentioned, however, the tendency to reduction of employment may not be observable because of counteracting changes in the business scene.

Effects of 25-Cent Minimum in 1938

The requirement of payment of a 25-cent-an-hour minimum wage in 1938 had a relatively slight effect upon employment. Some observers would take this as an indication that the economic analysis above set forth is "unrealistic." On the other hand, those who believe that minimum wage laws tend to produce unemployment would point to the improvement in general business conditions which occurred in years subsequent to 1938 as the reason for the minor impact of the law on employment. In any case, it is clear that we cannot "look at the facts" and draw unequivocal conclusions as to the effect of the minimum wage. Even where unemployment did occur, it is by no means clear that it was wholly attributable to the minimum wage and not to other causes.

Two weeks after the 25-cent-an-hour minimum went into effect (this was the initial requirement of the Fair Labor Standards Act of 1938), the administrator of the Act reported to the President that, in all, between 30,000 and 50,000 persons, or less than 0.05 per cent of the workers affected by the law, lost their employment for reasons probably traceable to the Act. Of these workers, about 90 per cent were concentrated in a few industries in the South, such as pecan shelling, tobacco stemming, lumbering, and bagging. Other industries which were seriously affected by the minimum wage included cottonseed crushing, seamless hosiery, and cotton garment manufacture.

Many firms in these industries reacted to the wage increase by substituting machinery for labor. Thus in ten independent tobacco stemmeries surveyed by the United States Bureau of Labor Statistics in 1935,

all stemming operations were performed by hand. When the BLS resurveyed the same plants in 1940, 54 per cent of the employees were working on stemming machines.⁶

In cottonseed crushing, a new cooking and crushing machine was developed with the capacity of 100 tons, which required the services of one skilled operator during an 8-hour shift as compared with equipment previously in use which required six or seven workers during a shift. In the seamless hosiery industry, the use of machinery which eliminated handwork was expanded. This permitted the transfer, by machine, of the top of the stocking, which is knitted on a separate machine, to a knitting machine that completes the knitting operation. Significant technological advances were also made in pecan shelling, bagging, and in other industries.⁷

Because of various technological problems, at least one industry—southern lumber—was unable to offset costs by mechanization to the same significant degree as the industries which we referred to above. However, as production and prices both increased substantially after 1940, the most pressing problems for this industry were (at least temporarily) met.

Increased mechanization was only one of the ways in which industry reacted to the cost problems created by the Fair Labor Standards Act. Other adjustments included:

1. Narrowing differentials between the high-paid and the low-paid workers by not granting increases to high-paid workers equal to those required to bring the lowest paid within the law;
2. Carefully weeding out inefficient employees;
3. Establishing higher standards of efficiency for new personnel and improvement in selection techniques to put these standards into effect;
4. Increasing attention to working conditions and other personnel problems in order to improve the general efficiency of the labor force.

Management had almost complete freedom to make these adjustments, since in industries which were directly affected by the 1938 legislation, unionization was largely absent.

The effect of these adjustments upon employment is not entirely clear, but it appears that in a few industries, the substitution of machinery for low-paid hand labor created substantial technological unemployment. The incidence of technological improvement in such industries as

⁶ *Hours and Earnings of Employees of Independent Tobacco Stemmeries*, U.S. Bureau of Labor Statistics Serial No. 1388 (1941).

⁷ J. F. Moloney, "Some Effects of the Federal Fair Labor Standards Act upon Southern Industry," *Southern Economic Journal*, Vol. X (July, 1942).

tobacco stemming and cottonseed crushing was very heavy, with an average of from three to ten workers being displaced by a single machine. In these industries, extremely low wages made labor so cheap that large improvements had previously never been seriously considered.

Hardship engendered by this technological unemployment was, however, offset by the fact that the Fair Labor Standards Act of 1938 was inaugurated at the depth of the 1937-38 recession, and business conditions and employment generally improved immediately thereafter. Moreover, in 1940 the defense boom inaugurated a period of prosperity which more than took up any slack in employment caused by technological developments.

Besides creating some technological unemployment, the Fair Labor Standards Act also upset the competitive equilibrium in many industries. High-wage firms often were required to make little or no adjustment in order to conform with the act; low-wage firms, on the other hand, faced a serious situation. A study of seventy-six plants in the seamless hosiery industry indicated that the twelve high-wage plants made few wage adjustments between 1938 and 1939, while the eleven low-wage plants were forced to raise wages 35 per cent. In many instances, these low-wage companies also made large expenditures in capital equipment in order to maintain a sound cost position. In this same industry, employment in the high-wage firms increased between 1938 and 1940 by 7.5 per cent, while employment in the low-wage group decreased 12.8 per cent.⁸ (See Fig. 29, on pp. 496-97.)

In the cottonseed-crushing industry, the low-wage plants were frequently the smaller ones. Because of limited resources to invest in machinery, these smaller plants suffered a serious competitive handicap from the cost increase resulting from the minimum wage.

There is also some evidence that the minimum wage altered the North-South differential in some industries. Generally speaking, the differential between the two areas was narrowed, since the law affected the South to a much greater degree than it did other parts of the country.

The Effects of the 75-Cent Minimum

The 75-cent minimum established in 1949 affected substantially the same industries and the same areas as did the original Act of 1938. Thus of the 1,500,000 workers covered by the Act who the U.S. Bureau of

⁸ A. F. Hinrichs, "Effects of the 25 Cent Minimum Wage on Employment in the Seamless Hosiery Industry," *Journal of the American Statistical Association*, Vol. XXXV (March, 1940), pp. 13-23; and H. M. Douty, "Minimum Wage Regulation in the Seamless Hosiery Industry," *Southern Economics Journal*, Vol. VIII (October, 1948), pp. 176-89.

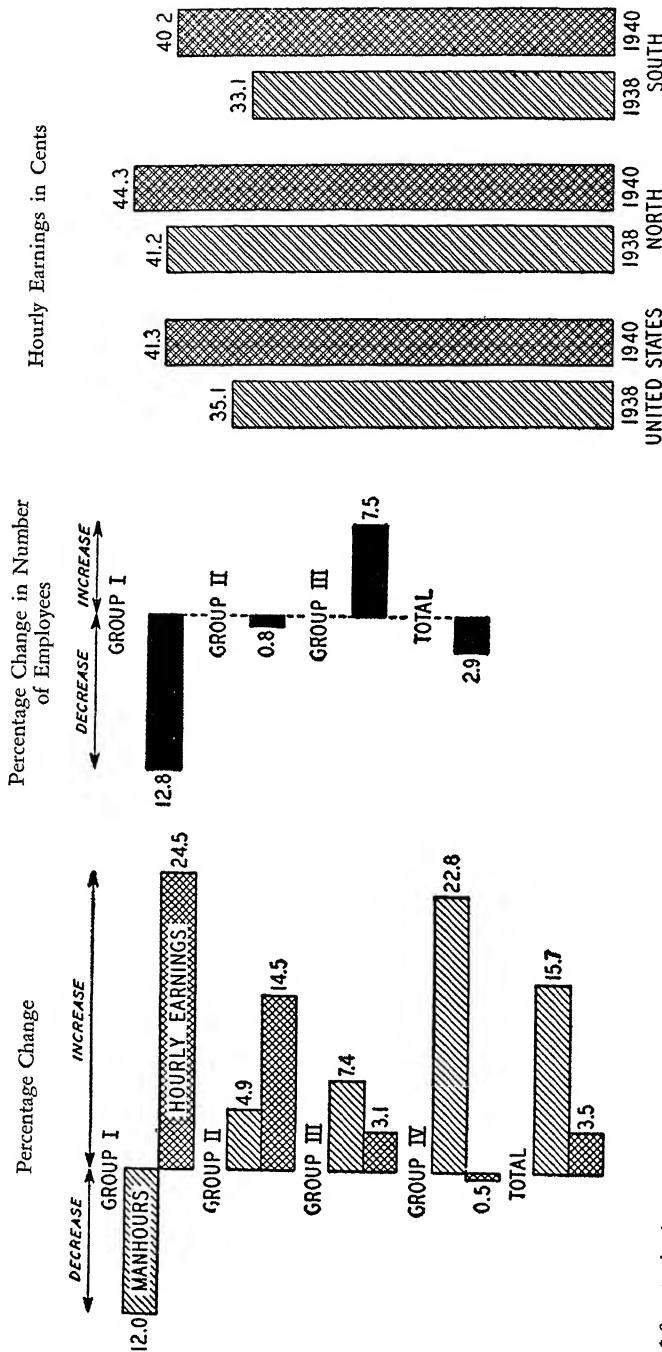
FIGURE 29^a

EFFECTS OF MINIMUM WAGES ON SEAMLESS HOSIERY INDUSTRY

Except in lowest-wage plants, employment generally increased from September, 1938, to September, 1939.*

But over the 2-year period (1938-40) employment generally fell except in high-wage plants.†

The North-South wage differential narrowed from 1938 to 1940, as minimums mainly hit Southern plants.

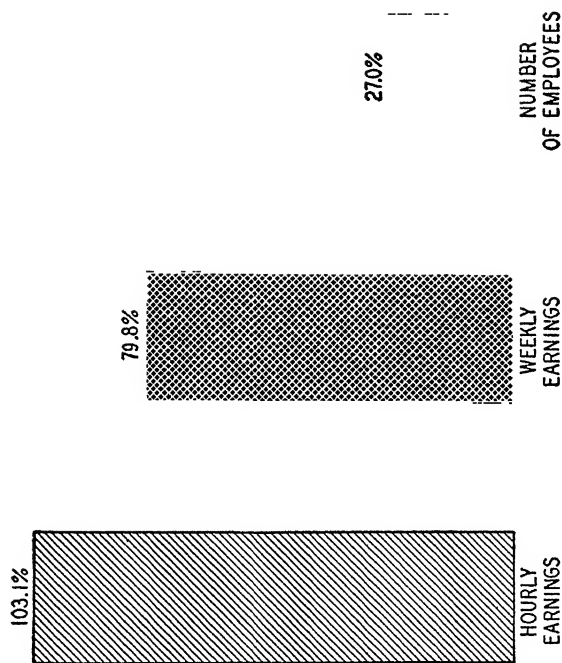


* Seventy-six plants: group I (11 plants) under 25.0 cents; group II (8 plants) 25.0-27.5 cents; group III (12 plants) 29.0-32.5 cents; group IV (44 plants) over 32.5 cents.

† Ninety-one plants: group I (33 plants) under 32.5 cents; group II (31 plants) 32.5-40.0 cents; group III (27 plants) 32.5-40.0 cents; group III (27 plants) over 40.0 cents.

FIGURE 29b

WAGES AND EMPLOYMENT BOTH ROSE IN INDEPENDENT TOBACCO STEMMERIES* BETWEEN 1935 AND 1940
(Percentage Increase)



* Eleven stemmeries in North Carolina and Virginia.

SOURCES: For data, U.S. Bureau of Labor Statistics. For charts, National Industrial Conference Board, Inc.

Labor Statistics estimated were receiving less than 75 cents per hour prior to January 25, 1950 (the effective date of the 1949 amendments), 840,000 were employed in the South or Southwest. These areas were, of course, the principal concentrations of subminimum wages in 1938. Again, as in 1938, the cottonseed-crushing, tobacco-stemming, seamless hosiery, cotton garment, fertilizer, and lumber industries were the Southern industries most directly affected.

In some other respects, the situation at the time of the establishment of the 75-cent minimum in 1950 was similar to that in 1938 when the initial 25-cent minimum became effective. Unionization was still largely absent from the industries directly affected so that management had pretty much of a free hand to adjust to the higher minimum. And once again the effect of the higher minimum was obscured by an economic upswing resulting from military action—this time the Korean war which began 6 months after the 75-cent minimum was effective.

Considering these similarities, it is not surprising that the economic effects of the 1949 law paralleled those of the original 1938 Act. For example, in the Southern sawmill industry, 69.2 per cent of a sample studied by the U.S. Bureau of Labor Statistics received less than 75 cents per hour just prior to the 1949 amendments, but only 8.2 per cent were

TABLE 25
DISTRIBUTION OF WAGE RATES BEFORE AND AFTER THE 75-CENT MINIMUM
BECAME EFFECTIVE. SOUTHERN SAWMILL INDUSTRY

AVERAGE HOURLY EARNINGS	PERCENTAGE OF ALL WORKERS	
	Fall, 1949	March, 1950
Under 75 cents	69.2	8.2
75-79.9 cents	11.0	66.3
80-99.9 cents	11.4	16.0
100 cents or more	8.4	9.5
Total.	100.0	100.0

SOURCE. *Monthly Labor Review*, September, 1950, p. 313.

below that rate by March, 1950. (See Table 25.) To accommodate to this increase, the Southern sawmill industry did the following:

1. Narrowed wage differentials by giving above minimum employess substantially smaller increases than those employees for whom raises were required by law.
2. Reduced hours of work by cutting out overtime in order to eliminate time-and-one-half pay.
3. Mechanized, particularly by installing mechanical stackers to displace laborers whose rates had been below 75 cents.

There were also some shutdowns of marginal firms and some reduced employment. The building boom of 1950, greatly increased by the effects of the Korean war, permitted increased production and substantial price advances which offset the increased costs. Moreover, the removal of logging operations and primarily intrastate operations from the coverage of the law aided the lumber industry's adaption to the new 75-cent minimum.

Similar effects of the 75-cent minimum were found in the fertilizer, furniture, cotton garment, and seamless hosiery industries, especially in terms of narrowed differentials, increased mechanization, marginal-firm closings, and some reduction in employment, with the last two mitigated by increased production and prices attributable to the Korean war inflation. Some part of the unemployment in 1950 was the result of shutdowns occasioned by the business recession in 1949, and this makes it difficult to determine the extent of unemployment attributable to the 75-cent minimum.

The Effects of the \$1 Minimum

The \$1 minimum which went into effect in 1956 generally affected the same industries and principally Southern industry as did its predecessor minima. However, the \$1 minimum affected these industries more severely, and having been through the adjustment mill several times, these industries had less capacity to mechanize and otherwise rationalize than in past instances.

TABLE 26
EFFECT OF ONE DOLLAR MINIMUM ON EARNINGS DISTRIBUTION
IN SEAMLESS HOSIERY INDUSTRY
(Percentage Distribution)

EARNINGS	MEN'S SEAMLESS			CHILDREN'S SEAMLESS		
	August, 1955	February, 1956	April, 1956	August, 1955	February, 1956	April, 1956
Under \$1.00	49.3	39.2	1.8	57.7	48.3	1.9
\$1.00-\$1.24	28.1	34.4	67.0	27.3	33.1	74.6
\$1.25-\$1.49	13.1	15.4	18.3	10.6	13.1	16.3
\$1.50 and over . . .	9.5	11.1	12.8	4.3	5.5	7.3

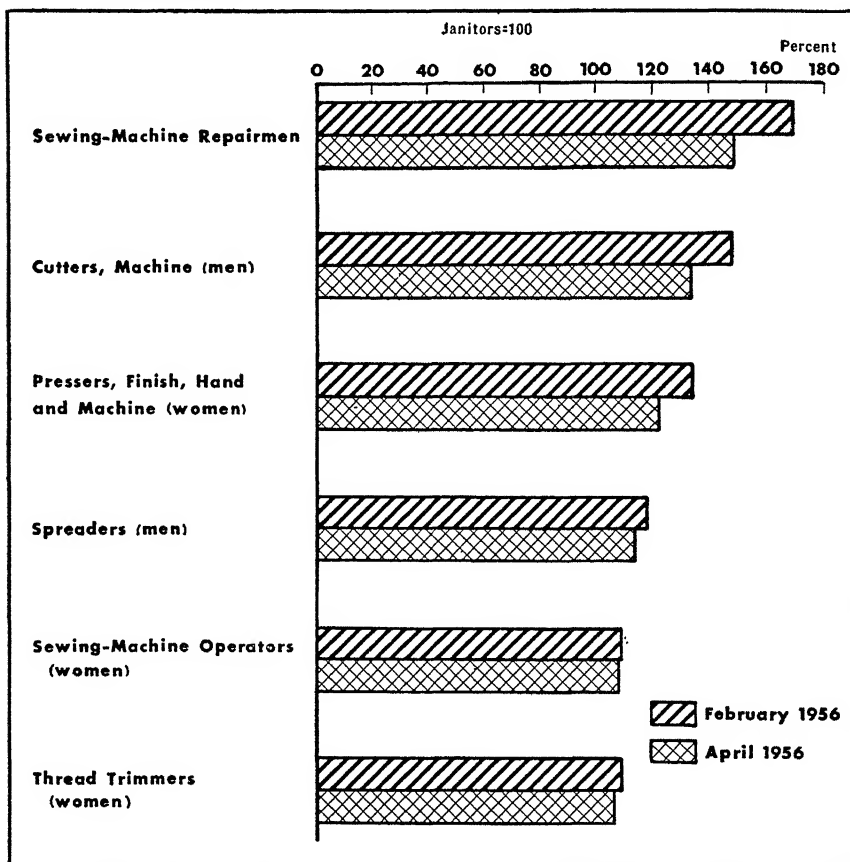
SOURCE: U.S. Bureau of Labor Statistics.

The United States Bureau of Labor Statistics estimated that approximately 2 million workers would be directly affected by the \$1 minimum, and that an average increase of 15 cents per hour would be needed to bring these workers up to the \$1 per hour rate. Studies of the Bureau of

Labor Statistics since the rate went into effect indicate that most industries reacted to the new minimum by compressing their wage structures, reducing overtime, laying off inefficient workers, and raising prices. Mechanization played a secondary role.⁹

FIGURE 30

JOB PAY RELATIONSHIPS, WORK-SHIRT INDUSTRY, SOUTHEAST, FEBRUARY AND APRIL, 1956
(Average Hourly Earnings for Men and Women in Selected Production Occupations Expressed as a Percentage of Average Hourly Earnings of Janitors)*



* Excludes premium pay for overtime and for work on week ends, holidays, and late shifts.

SOURCE: U S. Department of Labor, Bureau of Labor Statistics, Report No. 115.

For example, in both the seamless hosiery industry and the work-shirt industry, levels of earnings were significantly raised and pay differentials even more significantly narrowed (Table 26 and Fig. 30).

⁹ The data dealing with the reaction to the \$1 minimum are based upon special studies made by the U.S. Bureau of Labor Statistics.

The reaction in the footwear industry was similar as a substantial number of workers were raised in pay to conform to the new \$1 minimum, and pay differentials cut down because the higher-paid workers received smaller pay increases or none at all. (Fig. 31).

These industries cut out overtime as much as possible because at the higher rate, time and one half is all the more expensive. Extra shifts were also discontinued to cut down on shift differential and supervisory costs. Where unions were not a factor, work standards were tightened and norms increased to cut down on incentive earnings. Wherever possible, prices were increased to offset the increased wage costs.

In these industries, there was some attention given to improved machinery and more efficient plant layout. This was however of minor importance in the general reaction to increased labor costs, no doubt because of earlier expenditures on such items as a result of the previous minimum wage levels.

In the fertilizer and sawmill industries, there was a greater emphasis on mechanization as a result of the impact of the \$1 minimum. In both these industries, the primary emphasis in the mechanization field as a result of previous minimum wages had been on direct production machinery and equipment. After the installation of the \$1 minimum, attention was turned to materials handling equipment which would eliminate or improve the efficiency of the common labor most directly affected. In these two industries, as in the others, however, the principal emphasis was on directly cutting down labor costs by eliminating overtime, extra personnel, and shifts, with mechanization a secondary source of adjustment.

The Southern sawmill industry, which has been directly affected by every minimum wage increase since 1938, was affected by the \$1 minimum a little more severely than by the 75 cent minimum of 1949. In the latter case, average earnings were 5 cents less than the minimum just before it became effective; but average earnings were only about 90 cents per hour just prior to the effective date of the \$1 minimum. Figure 32 traces earnings in Southern sawmills and shows how directly these earnings have been affected by minimum wage legislation.

As might be expected by our analyses and past case histories the \$1 minimum wage had a direct effect on employment. How much, it is difficult to be certain because other factors were at work. Business was generally good in 1956, and increased costs could often be absorbed or passed on to the buyer. Nevertheless, most industries studied by the United States Bureau of Labor Statistics reported some layoffs due to the new minimum, and a great many cut out overtime work and extra shifts.

FIGURE 31

PER CENT DISTRIBUTION OF ALL NONSUPERVISORY WORKERS IN THE FOOTWEAR INDUSTRY
BY AVERAGE STRAIGHT-TIME HOURLY EARNINGS¹, SELECTED AREAS AND TYPES
OF SHOES, AUGUST, 1955, AND APRIL, 1956

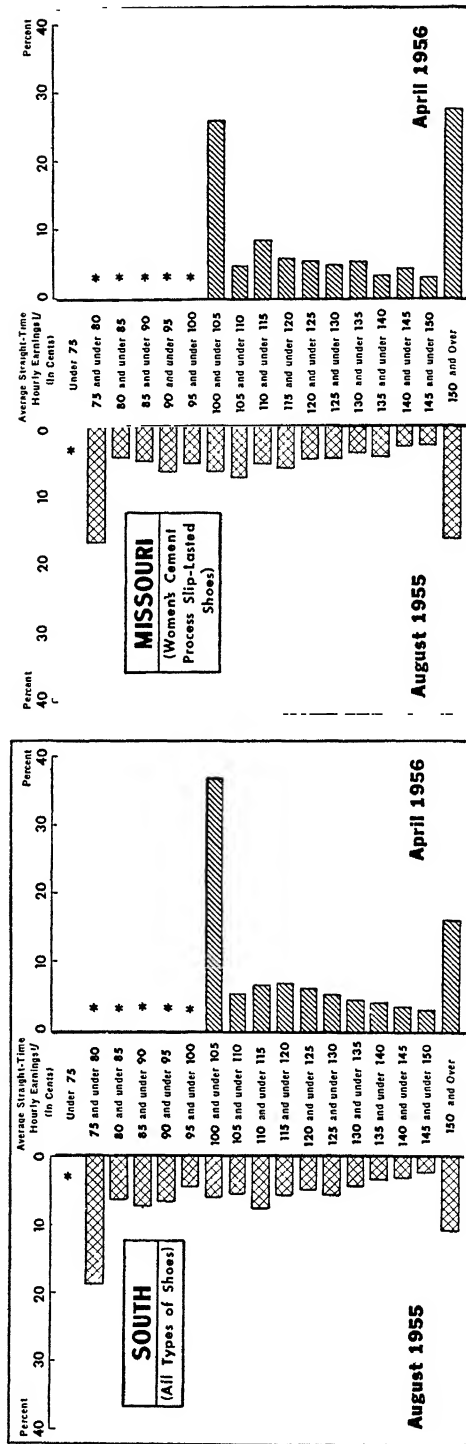
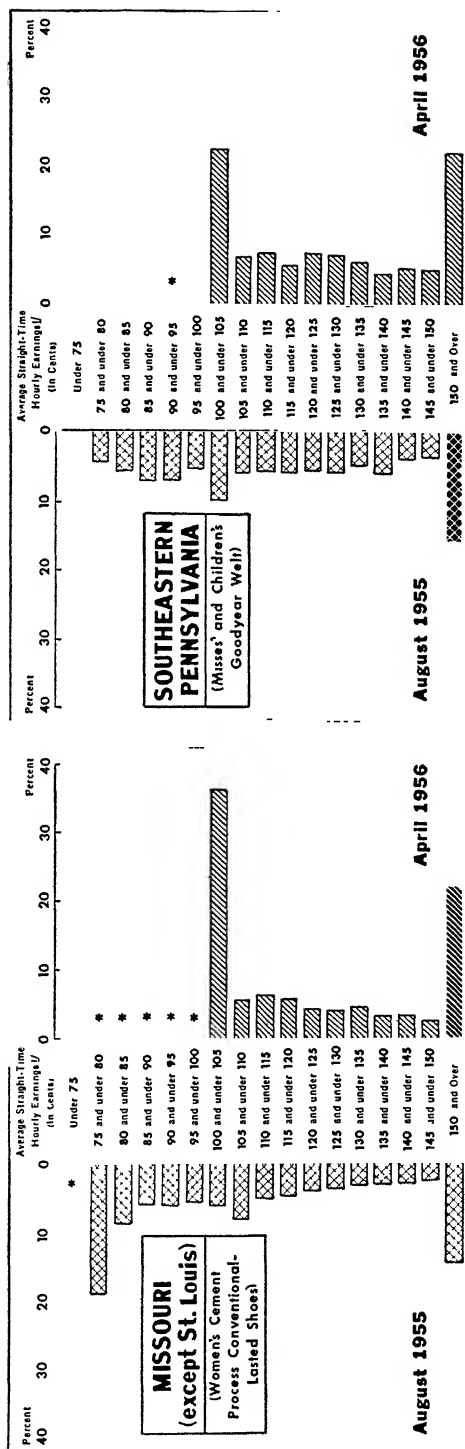


FIGURE 31—Continued



* Less than 1 Percent
/ Excludes premium pay for overtime and for work on weekends, holidays, and late shifts

Source: U.S. Department of Labor, Bureau of Labor Statistics, Report No. 115.

It is also quite possible that if business dips downward at a later date, or if costs increase further, more layoffs in this industry will occur which are at least partially attributable to the \$1 minimum wage. By the end of 1957, however, the industries affected had reacted as expected, but the incidence of unemployment was less than past experience or economic theory indicated could occur.

Minimum Wages and the North-South Differential

Because the minimum wage laws have directly affected the South considerably more than other areas, Southern manufacturers have argued for a lower minimum in the South than elsewhere. Northern manufacturers, anxious to reduce the North-South differential, have successfully opposed this request. Is maintenance of a North-South wage differential justified?

The argument has been advanced that imposition of a uniform minimum wage on the South and North alike would slow down the rate of Southern industrialization. Indeed, it has been suggested that Northern manufacturers desire a high minimum for the South as a form of internal protective tariff to halt the migration of capital to the South and export of goods to the North.¹⁰ However, recent investigations indicate that the wage differential has not been as important a factor in interregional migration of industry as might at first have been suspected. Within the South, employment in manufacturing has expanded no more rapidly in the low-wage sections than in the higher-wage sections. Indeed, the greatest rate of expansion has occurred in the relatively high-wage state of North Carolina. Capital has been attracted to the South because of climatic advantages, tractable labor supply, low taxes, access to cheap power and raw material. Presumably these attractions would still induce capital to move even if wage rates were higher.¹¹

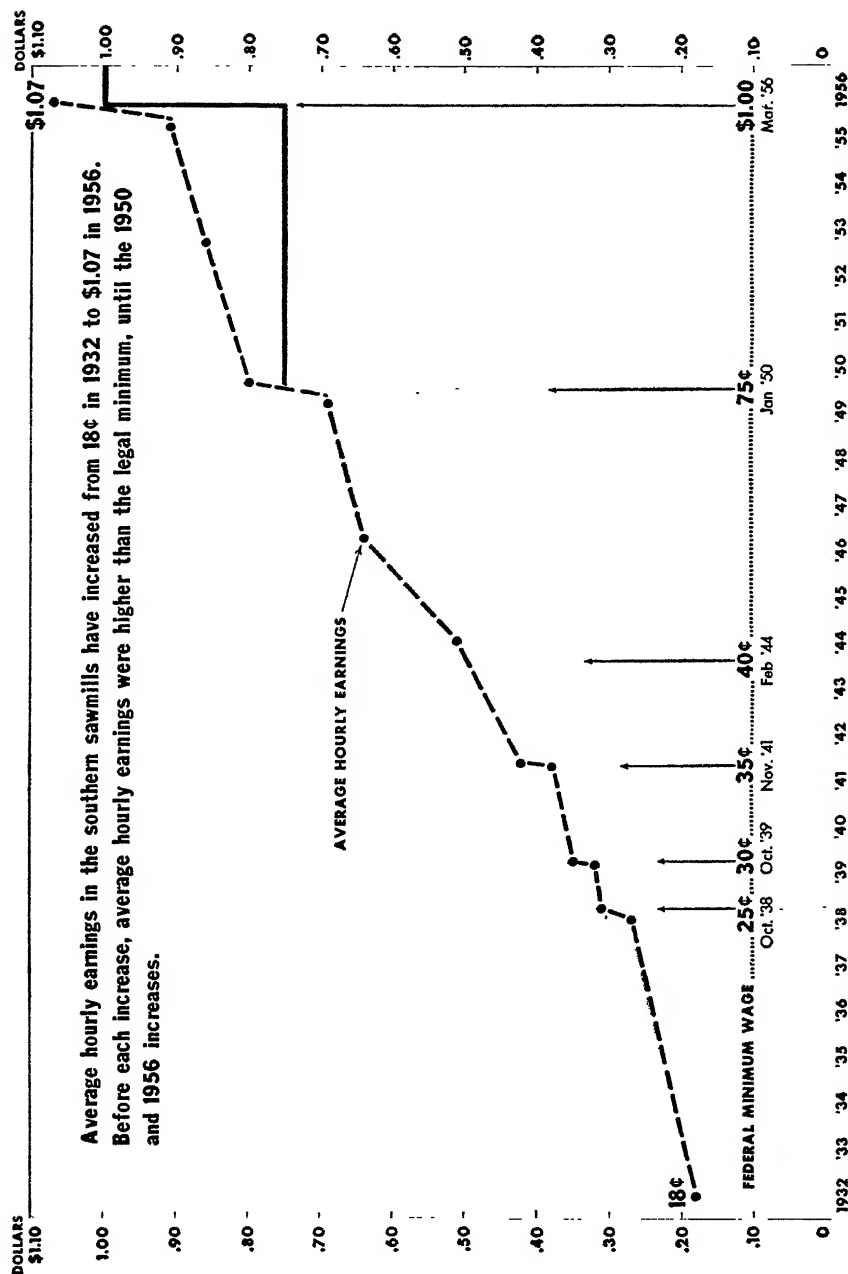
A somewhat similar argument stresses the fact that variation in wage rates is the means by which a free labor market brings about an adjustment between areas of relative surplus and areas of relative scarcity of labor. Thus if there is a surplus of labor in small towns, and in the South generally, wage rates will be lower in those areas compared to the cities of the North. Consequently, an inducement is afforded to capital to seek out the areas of surplus population. Not only is such a relocation of capital socially desirable but also the regional dispersion of industry is of

¹⁰ See, for example, J. V. Van Sickle, "Geographical Aspects of a Minimum Wage," *Harvard Business Review*, Vol. XXIV, No. 1 (1946), p. 289.

¹¹ R. A. Lester, "Trends in Southern Wage Differentials since 1890," *Southern Economic Journal*, Vol. XI, No. 1 (1945), p. 338.

FIGURE 32

AVERAGE HOURLY EARNINGS IN SOUTHERN SAWMILLS AND EFFECTS OF MINIMUM WAGE, SELECTED PERIODS, 1932-56



SOURCE: U.S. Department of Labor, Bureau of Labor Statistics

strategic importance to our national defense. Imposition of a uniform minimum wage, it is contended, will concentrate unemployment precisely in those areas where the need for job opportunities is greatest and will impede the migration of capital.¹² While there is considerable force to this argument, again the rebuttal lies in the fact that it overemphasizes the importance of wage differentials in the location of new industry.

The mere fact that wages are lower in the South is not *per se* proof that they should be. Southern wages have been lower for a number of reasons. A major factor is the oversupply of labor in the South, including the presence of a large body of Negro workers who by reason of discrimination in education and job opportunities are compelled to accept a low rate of remuneration for their labor.

Nor is the cost of living an effective argument in favor of a differential minimum wage. There is little evidence that any significant difference exists in the cost of living in large industrial centers of the North and South except so far as domestic servants are employed, and domestic servants are not factors in the average budget and certainly not in workers' budgets. The United States Department of Labor Consumer Price Index indicates a cost of living for Southern cities that is about on par with that in large cities elsewhere. For example in 1957, the index was 122.2 for Atlanta as compared with 118.3 for New York City.

Because of the type of industry that predominates in the South, it seems likely that the average wage will continue to be somewhat less than in other sections. A larger percentage of workers is employed in industries that require proportionately fewer skilled workers than is true of other sections. Such industries as the manufacture of precision tools, machinery, automobiles, watches, airplanes, and others which require a large proportion of highly skilled workers are not prevalent in the South. Rather, the bulk of its manufacturers consists of fertilizer, chemicals, iron and steel, textiles, lumber, pulp and paper, stone and clay products, and similar industries, primarily preparing raw material for shipment to other sections of the country where it will be used in the manufacture of finished products.

Furthermore, Southern industry is relatively small and more highly competitive than that of the North. The larger average establishment and the oligopolistic, highly mechanized durable-goods producing industry is more typical above the Mason-Dixon line than below it. In industries of the latter type, higher wage costs, by virtue of semimonopolistic control of the market, can be passed on to the consumer in the form of higher prices. Southern manufacturers, however, faced by a highly

¹² Van Sickle, *op. cit.*, p. 289.

competitive market and an unfavorable freight-rate structure find it less easy to adapt to high wage rates.

As a consequence of these factors, a wage differential has persisted between South and North for many years. World War I, New Deal measures, unionization, and various economic adjustments have brought few permanent alterations in South-North wage ratios for lumber, furniture, building construction, or full-fashioned hosiery, although the Fair Labor Standards Act did narrow the differential in a few industries such as seamless hosiery.

The Fair Labor Standards Act of 1938 and the 1949 amendments thereto did not cause substantial unemployment in the South, principally because of the increased employment, prices, and production resulting from the wartime boom.

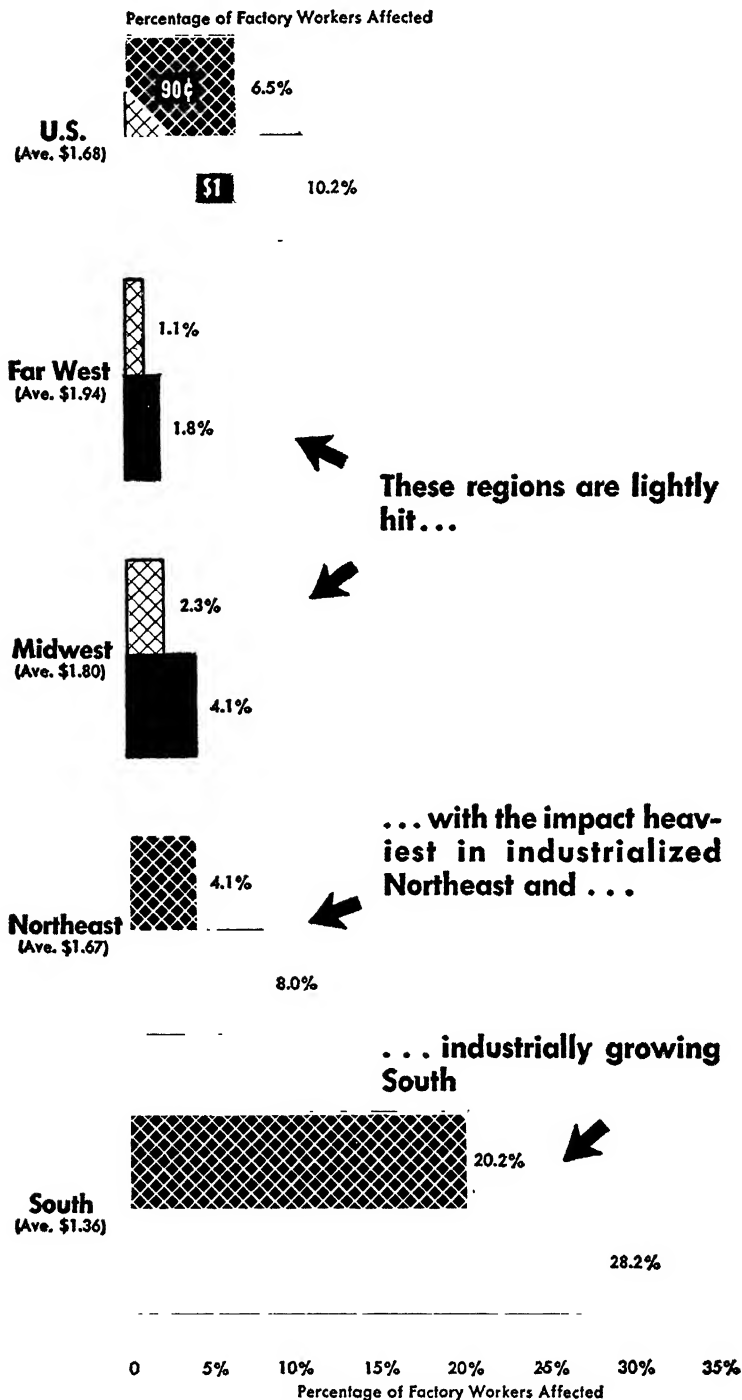
But no war boom followed the imposition of the \$1 minimum in 1956, although the economy was running at a record level that year. The essential point is, however, that in 1956, even though Southern industry suffered some serious dislocation and unemployment, neither Southern industry nor the North-South differential have been wiped out.

Actually almost any minimum wage, even one providing for a modest wage differential for the South, would probably have about the same economic effects in 1938, 1949, and 1956 as did the uniform minimums of those years. Figure 33 shows, for example, that 20 per cent of the South's industrial workers would have been affected by a minimum wage of 90 cents per hour in 1956, as against the 28 per cent who were affected by the \$1 minimum. Would not a minimum wage of 90 cents per hour for the South as against \$1 for the rest of economy in 1956 have resulted in about as much unemployment, mechanization, narrowed wage differentials, discontinuance of overtime, and general pressure on marginal firms as did the uniform \$1 minimum?

On the whole, the argument for a regional minimum wage differential is less compelling today than prior to World War II. The South, as a result of industrialization since 1940, has a much better trained labor force than it had previously. Recent studies have indicated that a large section of Southern labor spread over a variety of industries is equal in efficiency to Northern labor employed by the same companies or in the same industries.¹³ Many large companies having plants in various sections of the country now follow the policy of paying uniform wages in all their plants. If the tendency toward industry-wide bargaining by unions continues, uniformity in rates will become increasingly prevalent.

¹³ R. A. Lester, "Effectiveness of Factory Labor: South-North Comparisons," *Journal of Political Economy*, Vol. LIV (1946), pp. 73 ff.

FIGURE 33
COMPARISON OF WORKERS AFFECTED BY \$1 MINIMUM AS AGAINST 90-CENT MINIMUM



DATA: U.S. Department of Labor, February, 1955.

SOURCE: *Business Week*.

Many wage differentials in labor-market areas within the South actually exceed the South-North differential in those industries, a fact which results in part from the policy of some industries to pay the same wage rates regardless of area. There is thus no such thing as a single North-South differential. To base a minimum wage solely on regional differentials would be extremely difficult as well as hardly justified.

EMERGENCY WAGE REGULATION

Government control of all wage rates in a democracy is a phenomenon which occurs only in wartime or similar grave national emergency. The government moves to take wages out of control of individual unions and managements as part of a program to curb runaway prices. Such wage control is quite different from minimum wage regulation. In the remainder of this chapter, we shall summarize the history of wage stabilization during World War II and during the Korean war and analyze the different effects of stabilization during these two periods.

WORLD WAR II WAGE STABILIZATION

In 1939 the United States possessed relatively large volumes of unused resources. The Bureau of Labor Statistics estimated unemployment in 1939 at almost 9.5 million. The steel industry was operating at only about five-eighths capacity; the textile industry at three-quarters capacity. This unused capacity was typical of potential war industry in general.

Under these circumstances the country was able to commence war production without serious inflation at the outset. Nevertheless, new purchasing power created by increased employment in war industry caused purchasing power to expand at a more rapid rate than output of civilian goods. This tended to push prices up before unused resources of men and machines were fully employed.

The wholesale price index rose from 100 in August, 1939, to 124.8 in December, 1941. At the same time gross average hourly earnings rose almost by the same percentage.

At the time of the Japanese attack on Pearl Harbor, December 7, 1941, there had already been established an agency, the National Defense Mediation Board, to deal with strikes which interfered with defense production. This agency, however, was threatening to fall apart. President Roosevelt therefore convened a special Labor-Management Conference which resulted in the establishment of the National War Labor Board (WLB).

Until October, 1942, the WLB had no authority over voluntary wage

adjustments. During the first 9 months of its existence, however, when its sole concern was with cases involving disputes between labor and management, the WLB developed its basic stabilization program, which was later applied to both voluntary requests for wage adjustments (submitted either from management alone in nonunion plants or jointly from union and management in union plants) and to cases in which the WLB decided disputes between unions and management.

The core of this program was the so-called Little Steel Formula. Basically, this formula provided that establishments which had not had an increase of 15 per cent in average straight-time hourly earnings since January, 1941 (equivalent to the rise in living costs between January, 1941, and May, 1942), should be permitted to increase wages to this amount. It is noteworthy that wages were thus stabilized at this level without regard to increases in the cost of living which followed after May, 1942.

Wages are, however, almost never, in the strict sense of the word, stabilized. Rather, wages are restrained.¹⁴ Thus, although the WLB stabilized basic wage rates in accordance with the Little Steel Formula, wages continued to rise throughout the World War II period. This happened because workers receive wage increases on account of promotions, by changing jobs, by receiving merit or length of service increases, or by alteration of piece rates. Then too, workers increased their earnings (without altering wage rates) by working overtime and by working evening or night shifts for which a bonus or "shift differential" was paid. Finally, although wage rates were stabilized, the WLB permitted the institution and liberalization of fringe benefits such as vacations, holidays, or health and welfare plans, and the WLB granted wage adjustments to eliminate inequities and substandards and to aid in war production.

Dispute Cases versus Stabilization

The War Labor Board was organized to settle disputes. Although the effect of wages on prices was never absent from its deliberations, the NWLB had, for the first 9 months after its inception in January, 1942, its attention focused almost entirely on the settlement of labor disputes. Then in October, 1942, it was handed the job of wage stabilization as well.

To stabilize wages and settle labor disputes at the same time is both

¹⁴ Clark Kerr, "Governmental Wage Restraints: Their Limits and Uses in a Mobilized Economy." *Proceedings, Fourth Annual Meeting Industrial Relations Research Association*, 1951, p. 14.

conflicting and complementary. It is conflicting in that frequently a dispute could most easily be settled by ignoring stabilization. Quickie strikes during World War II frequently were strikes against stabilization rather than against the employer, who was often willing to pay higher wages but was not permitted to do so. If, however, stabilization were ignored in order to settle a dispute, obviously the way would be clear to circumvent stabilization simply by invoking a dispute.¹⁵

Even though wage stabilization may be the cause of labor trouble, stabilization principles must guide the settlement of labor-management disputes if wages are to be stabilized. During World War II, the wage stabilization divisions of the regional and national boards played an important role in dispute cases as well as in voluntary wage-adjustment applications.

Thus, typically, "the wage issue of dispute cases was carefully analyzed by the Wage Stabilization Division after special tripartite panels or hearing officers had heard the disputes and submitted their reports and recommendations to the Board. The Division's analyses contained a summary of the facts in the case and a statement of their relation to wage stabilization policy. The Board, in reaching its final decision, took into account these analyses as well as the panel and hearing officers' reports and recommendations."¹⁶

The closest co-ordination is, therefore, essential between wage stabilization and dispute matters, whether or not both are handled by the same agency. Such co-ordination can be more easily achieved by placing the responsibility for both in one organization, although it is not impossible that two agencies could function with full co-operation and satisfaction.

Effects of World War II Stabilization

Figure 34 (p. 513) shows some results of World War II wage stabilization. According to the data presented therein the rise in the cost of living between January, 1941, and July, 1945, was approximately 33.3 per cent. During the same period, basic wage rates increased about 24 per cent; straight-time hourly earnings, adjusted for employment shifts, 40.5

¹⁵ For example, there was the case of the apparent friendliness of a union and a company whose wage dispute was being considered, while it seemed evident that the parties were close to a meeting of the minds. Nevertheless, they refused a proposal to settle and to submit the matter as a voluntary application. Upon further investigation, it was discovered that they had already done so, and their proposed increase had been denied. The "dispute" had been arranged in an attempt to reverse the denial in the voluntary wage application.

¹⁶ *Termination Report of the National War Labor Board* (Washington, D.C.: U.S. Government Printing Office, n.d.), Vol. I, p. 23.

TABLE 27

FACTORS IN INCREASES IN WEEKLY EARNINGS, JANUARY, 1941-JULY, 1945
(Manufacturing Industries)

(Weekly Earnings, July, 1945 = 100 Per Cent)

	Amount	Per Cent
Weekly earnings, January, 1941.	\$26.64	58
Increase because of:		
1. Changes in basic wage rates*	6 22	14
2. Liberal administration of merit increases, piece rates, and changes in output of piece-rate workers*	2.17	5
3. Changes in distribution of workers as between regions, occupations, and shifts; and changes in provisions for premium pay for overtime work and for work on extra shifts*.	2 10	5
4. Changes in distribution of workers as between industries*	1.40	3
5. Extension of workweek†	4.85	11
6. Additional premium payment for overtime work.	2.07	4
Weekly earnings, July, 1945	\$45.45	100

*At January, 1941, hours.

†At July, 1945, straight-time rates.

SOURCE: *Termination Report of the National War Labor Board* (Washington, D.C.: U.S. Government Printing Office, n.d.), Vol. I, p. 553.

per cent; gross hourly earnings, 51.2 per cent; and gross weekly earnings, 70.5 per cent.¹⁷

In terms of spendable earnings, the increases were much less. Inflation control involves use of taxes and credit controls as well as of wage and price controls. The average worker supporting a wife and two children had increases in spendable earnings (real earnings less federal taxes) between January, 1941, and July, 1945, of 24 per cent; the average single worker saw his spendable earnings increase only 11.6 per cent.

Table 27 sheds light on the composition of the increases in weekly earnings in manufacturing. Overtime, shift differentials which applied to shifts not continued after the military victory, and liberal administration of individual increases and promotions were generally reversible at the end of the war with the return to "normal" industrial relations. Hence, increases attributable to such factors were not a permanent cost to industry. This was one of the arguments for approving such items rather than for granting wage increases.

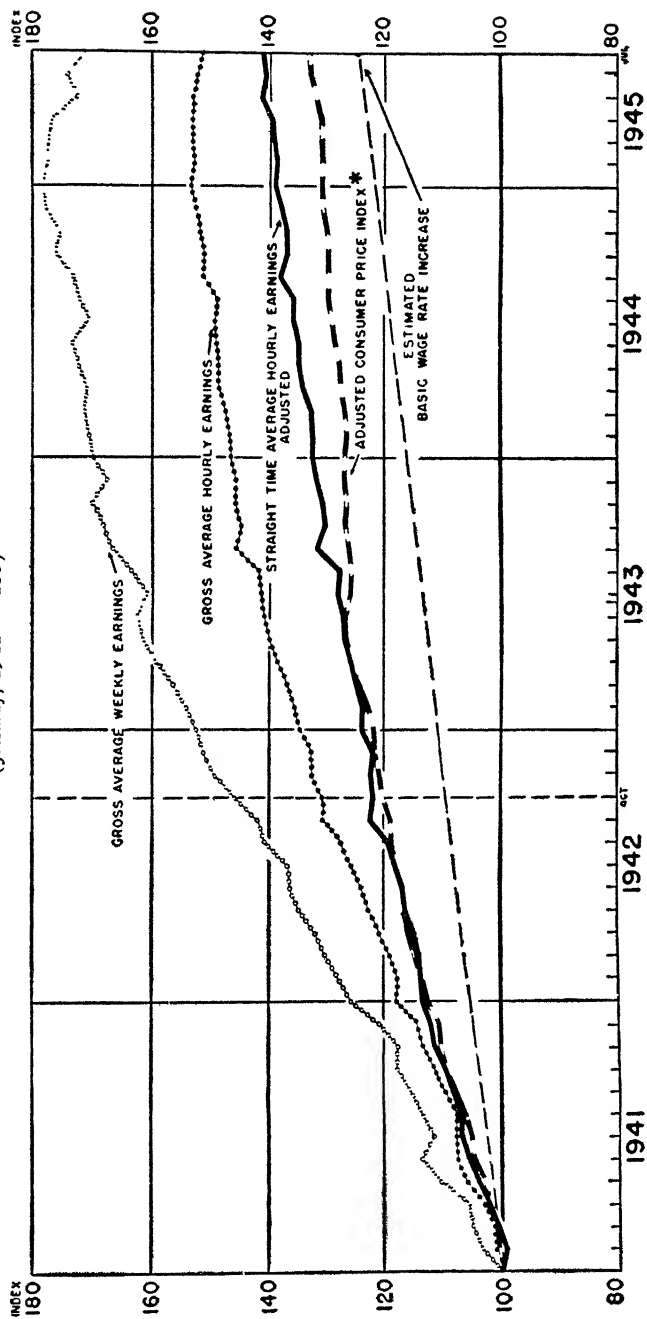
Postwar Inflation

On the basis of these data, a good case can be made that wages during World War II were stabilized about as well as could be expected. Partially perhaps because wages and prices were controlled well and

¹⁷ *Ibid.*, p. 551.

FIGURE 34

CHANGES IN WAGE RATES AND EARNINGS OF MANUFACTURING INDUSTRIES AND IN CONSUMERS' PRICES
(January, 1941 = 100)



* As adjusted for the President's Committee on the Cost of Living.
Source: U. S. Department of Labor, Bureau of Labor Statistics.

decontrolled too fast, a dramatic wage-price spiral featured the immediate postwar years, pushing consumer prices up at a rapid rate. When it appeared that wages and prices were approaching stability, the Korean war began, and a new wage-price spiral commenced.

WAGE STABILIZATION DURING THE KOREAN WAR

At the inception of the World War II defense program in 1939, the United States had been through a decade of depression and had large unused resources of manpower and equipment. The inflationary impact of defense expenditures was slow, and there was time for trial and error to develop methods of controlling the impact.

When the Korean war started in June, 1950, the United States had been experiencing a decade of war and postwar prosperity of unprecedented magnitude and full employment of manpower and equipment. The inflationary impact of the Korean war was immediate—but immediate more because of psychological rather than basic economic factors. For despite full employment, war expenditures in bulk did not occur until *after* the greatest price increases.

When the Korean war started, everyone—consumers and producers alike—seemed to act as if they had played the role before. Goods were snapped up off the shelves, labor agreements were voluntarily reopened to grant wage increases, factories worked overtime trying to fill the accelerated demands, and prices shot up. Here was inflation resulting not from a shortage of supply relative to demand but because people *expected* shortages to occur and because they *expected* prices and wages to be stabilized. Everyone seemed busy buying against a shortage which never occurred and raising wages and prices to get ahead of wage and price control which came too late.

Although wage and price control legislation was enacted soon after the Communists invaded South Korea, President Truman's administration did not invoke it until a serious wage-price spiral had already occurred. Once price and wage controls were invoked, the inflation halted its runaway course. In view of the psychological character of the inflation, and the lack of any genuine supply shortage relative to demand, it is logical to assume that the slowness to invoke controls was a costly mistake. Once controls were invoked, however, they worked quite differently from those of World War II.

The Wage Stabilization Board

Wage stabilization during the Korean war was administered by the Wage Stabilization Board. Whereas the War Labor Board of World War II was created as an agency with power to act only in dispute cases

and then later was granted authority over voluntary wage adjustments, the Wage Stabilization Board was created to control voluntary wage adjustments and then later was given limited control over dispute cases. Although a dispute case—the Steelworkers–Big Steel controversy—just about put the finishing touches on the work of the Wage Stabilization Board, most of the controversies before the WSB were cases in which employers and unions joined forces in an endeavor to obtain special consideration.

The approach of the War Labor Board of World War II, in general, was to set policy on the basis of its decision in individual cases, particularly dispute cases. Thus we have already noted that the basic stabilization doctrine—the Little Steel Formula—was arrived at in that fashion. The approach of the Wage Stabilization Board was quite different. After wages and prices were temporarily frozen on January 25, 1951, the WSB began promulgating regulations governing the conditions under which such increases as merit, length of service, promotion, inequity, etc., could be granted without specific WSB approval. Unions and managements who wanted permission for larger increases than allowed by the general regulations then had to request specific permission from the WSB. As requests were granted, general regulations were changed so that although *initial* policy was set by general regulation, specific cases modified the regulations and resulted in new ones.

In a real sense, the wage stabilization picture during the Korean war resembled a game of leapfrog. A general regulation was laid down which set a permissive wage increase ceiling. A special case came up, and the increase permitted jumped the ceiling. Soon after the price-wage freeze on January 25, 1951, these “leaps” proceeded rapidly; then for a while they slowed down. In the end they took one big leap—the steel case—then wage stabilization virtually collapsed. Wage controls were anything but a conspicuous success during the Korean war.

ANALYSIS OF WAGE CONTROLS OF WORLD WAR II AND OF KOREAN WAR

Why did wage controls work quite differently during World War II than during the Korean war? There are several reasons grounded in the different character of the times and of unions and employers during those times.

Different Economic and Psychological Conditions

We have already noted some of the different economic and psycho-

logical conditions of the two periods. The slow start of the defense program in 1939, the background of a depression decade, and the lack of personal and business income savings and borrowing capacity all prevented inflation from getting a running start. In contrast was the Korean war period: a background of a prosperity decade, with plenty of personal and business income savings and borrowing capacity, all of which could (and seemingly was) put to use to bid prices up.

Equally if not more important than economic conditions were the different psychological conditions of the two periods. World War II was an all-out effort, psychologically. Contributing to inflation was unpatriotic. Nearly everyone was involved emotionally in the war effort.

The Korean war was a partial effort, psychologically and emotionally as well as economically and militarily, especially as soon as the hopes for easy victory faded. Under those conditions, concern with the general problem of inflation was decidedly secondary in most peoples' minds. The psychological reaction to the outbreak of the Korean war—buying and bidding up prices and wages so as to be in the best possible economic position when controls were imposed—is the best indicator of the public's (including businesses' and unions') reaction to controls at that time.

The Changing Character of Labor and Management

As different as were economic and psychological conditions during World War II and the Korean war, they were no more different than were the attitudes of management and labor. During World War II, management still fought unions on the prime issues of wages, fringes, and union security. Indeed, management of the early 1940's can truly be said not to have accepted unions as a permanent institution. Consequently, management fought unions hard on the crucial issues of wages. *It appears quite clear in retrospect that wage stabilization succeeded so well during World War II because employers feared that wage increases would be ruinous to them and therefore supported stabilization.*

Management's fight on the wage front during World War II was strengthened by the belief among employers that they could not expect to obtain a fair profit from a price control agency and the Democratic administration. Consequently, if they yielded on wages, employers expected price lids would be maintained, and they would be caught in a price-wage squeeze.

By the time the Korean war broke out, managements, especially of large companies, had found that they could live with unions even with large wage increases, fringes, and the granting of union security. Consequently, these employers were more interested in labor peace than in

wage stabilization. The president of General Motors argued before the Wage Stabilization Board against freezing the cost of living and annual improvement increases in his agreement with the United Auto Workers at least as vehemently as did the president of the UAW.

Moreover, experience had convinced employers that the government would give them a square deal on prices, even if the government were not of their political choice. By the Korean war, there was little fear of a price-wage squeeze in business circles.¹⁸

The unions of the Korean War had changed since the beginning of World War II as much as employers. At the start of World War II, unions were new in most industries, insecure and unaccepted. They gladly accepted union security in place of wage increases, and then fringes to keep wage rates stable. During World War II, unions were feeling their way and gaining acceptance.

By the time the Korean war began, unions had gained acceptance, security, fringes, and large wage increases after surviving the postwar labor strife rather handily. Being responsive to their membership, unions saw no answer but wage increases to offset the effects of rising prices on union members. With management anxious to co-operate, the unions obtained what they wanted.

"Stabilization" by Big Bargains

During World War II, the government acting through the War Labor Board, a tripartite agency, composed equally of labor, management, and public representatives, established its stabilization norm—the Little Steel Formula—and stuck to it with some yielding on the fringes. The then current war, economic and psychological situations, and the prevailing character of labor and management relations made that possible.

During the Korean war, the government adopted no such independent position. Essentially what the Wage Stabilization Board did was "to take the top national bargains [especially the UAW-General Motors Agreement] and turn them into governmental policy."¹⁹ When a bargain exceeded such policy, it was sometimes turned down, but often approved as a special case. The then current war, economic and psychological situations, and the prevailing character of labor and management relations again made that possible.

The effect of stabilizing at Big Bargain levels, as the Korean war WSB did, is undoubtedly to push wages of some companies higher than

¹⁸ Kerr, *op. cit.* Our discussion owes much to Professor Kerr.

¹⁹ *Ibid.*

would otherwise have occurred. For once the top limits are set, unions, in response to the membership, push for the limit. It would probably be accurate to state that the Korean war stabilization program was not only started too late but was also maintained too late. For after the institution of controls stopped the psychological inflation, they tended more, in the absence of serious supply-demand disequilibria, to push wages up to the Big Bargains rather than to keep them stabilized.

The Future

How effective can controls be in a future crisis? It all depends on the existing situation—war, economic and psychological, and the then current labor and management relationship. About the former, little can be predicted. About the latter, it may be assumed that labor-management relationships are not likely to revert to the World War II situation but will more likely approximate that of the Korean war. It is difficult to imagine, therefore, stabilization stricter than that based on Big Bargains, unless the country is faced with an obvious struggle for survival. Then a stricter control policy would probably be adopted.

QUESTIONS FOR DISCUSSION

1. Discuss the theoretical effects of a minimum wage upon employment. How did the actual results of the 25-cent minimum in 1938, the 75-cent minimum in 1950 compare with the consequences predicted by economic theory?
2. Compare wage stabilization policies of World War II and of the Korean war period. What were the basic reasons for the difference in approach?
3. Discuss the pros and cons of a differential for the South under the minimum wage law.

SUGGESTIONS FOR FURTHER READING

KERR, CLARK. "Governmental Wage Restraints: Their Limits and Uses in a Mobilized Economy," *Proceedings, Fourth Annual Meeting Industrial Relations Research Association*, 1951.

A realistic analysis of wage stabilization by an economist who served on both the War Labor Board and on the Wage Stabilization Board.

"The Consequences of Minimum Wages," *Proceedings of Ninth Annual Meeting of Industrial Relations Research Association, Cleveland 1956*, pp. 154-95.

A full discussion of all points of view on the economics of minimum wages by five analysts.

Chapter 18

THE SHORTER WORKWEEK

At the beginning of the nineteenth century, the situation of the working class in England was at its worst: hours of work were prolonged,¹ wages were at an extremely low level, and laws protecting labor were practically unknown. These intolerable conditions led many reformers and socialistic writers to attack the capitalistic system which seemed to them to condemn the worker to ever-increasing degradation and poverty. Thus Karl Marx wrote: "Within the capitalist system, all methods for raising the social productiveness of labour are brought about at the cost of the individual labourer. . . . It follows, therefore, that in proportion as capital accumulates, the lot of the labourer, be his payment high or low, must grow worse."²

How far the critics erred in their prognostications is indicated by the spectacular growth of real wages in England and in the United States, the two capitalistic economies in which capital accumulation has been most rapid. In England, real national income per capita of occupied population practically doubled from 1850 to 1930.³ In the United States, real wages increased by six times from 1840 to 1950.⁴

ROLE OF COMPETITION

What critics of capitalism have overlooked is that a system of free enterprise tends to assure labor a rising level of real wages in the long run. The regulator which ultimately transmutes business profits into rising labor income lies in the mechanism of the competitive market for

¹ By comparison with other countries, hours standards in England were relatively good. In 1840 the average working week was estimated at 69 hours in England, 78 in United States and France, and 83 in Germany. *Encyclopaedia of the Social Sciences*, Vol. IV, pp. 480-81.

² Karl Marx, *Capital* (Chicago: Charles H. Kerr & Co., 1926), Vol. I, pp. 708-9.

³ Colin Clark, *The Conditions of Economic Progress* (London: Macmillan & Co., Ltd., 1940), p. 83.

⁴ Data from U.S. Bureau of Labor Statistics.

goods and services. That individual employers may be reluctant and even obdurate when it comes to raising money wage rates is immaterial. Employers are likewise reluctant to reduce prices, but the force of competition in the market compels them to do so. And it is through this secular reduction in prices⁵ and improvement of the quality of goods that labor, along with all other groups in a competitive society, shares in the gains of increasing productivity attributable to technological advance.

It is true that the price mechanism has not worked perfectly. Monopoly power, administered rigid prices, artificial tariffs—these are some of the more familiar impediments which have jammed the distributive process. But these imperfections have chiefly resulted from compromise of the fundamental principle of free competition rather than from a failure of that principle itself. And the undeniable fact remains that despite restraints and interferences with competition, real wages in the United States have risen to levels higher than in any other country in the world.

If labor has been able to maintain and increase its real wage at the same time that hours of work have been diminished, the explanation must be sought in the contribution of the silent partner in the business of increasing labor productivity—the machine. Capital per worker in manufacturing rose from about \$557 per worker in 1850⁶ to nearly \$1,400 per worker in 1956.⁷

Until 1933, when organized labor was given the stimulating tonic of the New Deal, unions exerted comparatively little influence in the labor market. From 1897 to 1916 average trade-union membership never exceeded 3 million for the whole nation; the average membership between 1918 and 1934 was only about 3½ million. Except for a brief spurt in membership during and following World War I, only about 10 per cent of organizable employees were members of unions from 1910 to 1930. Yet, as we have seen, this same period witnessed a substantial increase in the level of real wages. It is apparent, therefore, that the pressure of union demands is not an essential condition for a rising real wage level. This does not mean, however, that individual bargaining affords full protection for the worker, nor that collective bargaining is unnecessary. Indeed, as will appear in following discussions, there is some evidence that pressure by organized labor is necessary to achieve a shortening

⁵ Technological progress, by increasing the demand for labor, may also induce employers to offer higher money wages to obtain more labor. But even if employers resisted this tendency, real wages would still rise because of the increased output at lower cost of production.

⁶ W. I. King, *The Wealth and Income of the People of the United States* (New York: Macmillan Co., 1917), p. 145.

⁷ *Business Record*, November, 1956, p. 470.

of the workweek. Moreover, it is clear that increases in real hourly earnings are only one objective of union activity. Even if unions were powerless to alter the rate of increase in real wages, they could still perform valuable services for labor by introducing law into industrial relations and making for a more orderly application of mechanical improvements.

Union wage pressure may change the form in which rising real income is enjoyed—that is, union organization is likely to translate increasing productivity into rising money wages with near stable prices, whereas in a nonunion economy the gains of productivity are perhaps more likely to be distributed in the form of falling prices and stable money wages. But regardless of the nature of their ultimate manifestation, real wages in a capitalistic society have shown a long-run tendency to rise as a result of the individual efforts of employers to secure a maximum profit.

Competitive Tendency toward Shorter Hours

Can the same sanguine result be predicted with regard to shortening of the hours of work? Is there any long-run tendency in a capitalistic society toward shorter hours of work, or have the gains which have been scored in this direction been obtained largely through governmental regulation and the concerted efforts of organized labor?

An important theoretical distinction suggests itself: the twin objectives of higher real wages and shorter hours are not attained by the same economic paths. A hypothetical example will make this clear. Assume an economic society in which the labor market is composed of individual pools of labor with zero mobility between the various pools. (This might be the case if industry were located exclusively in small towns which workers were loath to leave even if wage rates were considerably reduced.) Assume further that each pool of labor is dependent for employment on one employer who takes advantage of his position by paying wages below the marginal revenue productivity of his workers and by maintaining this low wage level despite rising labor productivity incidental to technological progress. Under even these highly unrealistic assumptions, heavily weighted against labor, real wages would nevertheless show a tendency to rise, since the level of real wages is determined not only by competition in the labor market but also by competition in the product market; and workers, even though deprived of the ability to obtain their full marginal-productivity wage, are not thereby deprived of the full bargaining power which they exercise in their roles as consumers and final arbiters of the competitive process.

But does this twofold mechanism operate to reduce hours of work

as it does to increase real wages? Suppose that as technological progress reduces unit costs, the employers in our hypothetical economy refuse to reduce hours of work and continue to work their employees the same hours as before. It is obvious that this will result in a greatly augmented output, consequent falling prices, and rising real wages. But there would seem to be no economic necessity that hours be reduced, except possibly as workers voluntarily agree to share work to relieve the burden of technological unemployment.

The conditions of this example are, of course, highly artificial. In reality, labor is not so immobile and employers are not free to dictate work hours. Consequently, as capital accumulation increases the demand for labor, competitive bidding by large and small enterprises for the services of labor tends not only to raise their real wages but also, to some extent at least, to reduce the hours of work. The employer who makes the most attractive wage and hour offer will attract the best workers, and this motive has inspired many farseeing industrialists to champion the cause of the shorter workweek.

Nevertheless, examination of the history of the shorter-hour movement in the United States suggests that the purely *competitive* tendency toward shorter hours has evidenced itself with much less vigor than the tendency toward higher real wages. Indeed, as late as 1922, the steel industry—the basic industry of our twentieth-century economy—had so far resisted any trend to shortening of hours that the 12-hour day continued to be customary practice in the mills, due, in part, to the large proportion of immigrants in the labor force. In 1919, the year that 300,000 steelworkers struck in vain for the elimination of the 12-hour day, average weekly hours were 68.7, and an estimated 52.4 per cent of United States Steel Corporation employees were on a 12-hour shift.⁸ As late as May, 1923, the American Iron and Steel Institute declared that elimination of the 12-hour day was not feasible, but adverse public opinion finally compelled the industry to reverse itself.

The Technological Basis for Shorter Hours

As a historical development, shortening of hours of work has involved a dual process. On the other hand, certain factors have made possible a shortening of working time without any impairment in the standard of living of the mass of workers. On the other hand, certain forces have been most active in translating this possibility into reality. It

⁸ M. C. Cahill, *Shorter Hours* (New York: Columbia University Press, 1932), pp. 211, 215; and Commission of Inquiry, Inter-Church World Movement, *Report on the Steel Strike of 1919* (New York, 1920), pp. 49, 71.

will be convenient to consider the history of the shorter-hour movement from these two points of view.

As far as the real basis for shorter hours is concerned, there can be little room for argument. Union organization alone certainly can claim no magic elixir by which it can create shorter hours for labor with undiminished *real* weekly earnings. Of course, through bargaining power, unions can obtain shorter hours of work with undiminished *money* earnings; but this will simply produce a general rise in unit labor costs and prices throughout the economy. The reduction in hours of work, unless compensated by increased labor effort, will diminish the total aggregate of real output. Consequently, even if labor's money earning is maintained, the decline in production and rise in prices will reduce labor's real wage.

The statement is sometimes made that the increasing productivity of *labor* has made possible a shortening of hours of work over the years. Does this mean that employees by and large work harder or put forth more effort today than they did 50 years ago? Or are workers more productive today because the labor force on the average has a higher degree of skill? Neither of these possibilities affords the real explanation for the growth in labor productivity. Indeed, the term "labor productivity" is something of a misnomer. Actually, as noted in Chapter 15, it is simply a statistic obtained by dividing output by man-hours worked. The fact that the resultant quotient is termed "*labor* productivity" should not be interpreted as implying that labor, rather than other factors, is responsible for any increase in the value of the figure. Rising labor productivity is largely a manifestation of the joint contribution of increasing capital, improved managerial technique, and scientific advance.

Shorter hours and higher pay in American industry have resulted from application of labor-saving machinery and improved production methods which have enabled the American worker to produce greater quantities of goods in less time than workers in any other country of the world. As already noted, capital per worker in manufacturing rose from about \$557 per worker in 1850 to nearly \$1,400 per worker in 1956.⁹ Capital per worker thus has been growing at the rate of about 2 per cent per year. At the same time, output per worker has been increasing between 2 and 3 per cent per year.¹⁰ Labor in the aggregate has become more productive because it has been used in roundabout "capitalistic" processes to fashion tools and build machines¹¹ rather than to concentrate on con-

⁹ See above, p. 520.

¹⁰ S. H. Slichter, *The Challenge of Industrial Relations* (Ithaca, N.Y.: Cornell University Press, 1947), p. 77.

¹¹ See E. von Böhm-Bawerk, *Positive Theory of Capital* (New York: G. E. Stechert & Co., 1930), for the classic exposition of this process.

sumers goods and leave labor to work unaided by technology. Science and saving are the two partners which have set the technological basis for shorter hours in industry.

HISTORY OF THE SHORTER-HOUR MOVEMENT

The second aspect of the hours problem is subject to more controversy. Capital accumulation has made possible the shortening of hours, but would it have materialized had it not been for the agitation of organized labor and liberal groups, and the legislation of state and federal governments? According to one writer on labor problems, most employers have shortened the workday or workweek only under some sort of compulsion—from the state, their fellow employers, or unions.¹² We have already noted that the competitive tendency toward shorter hours may manifest itself with somewhat less vigor than the tendency to higher real wages. Does the historical development of the shorter-hour movement in the United States shed any light on this problem?

One of the earliest manifestations of the shorter-hour movement was in the form of a resolution adopted by the journeymen carpenters of Philadelphia who in 1791 declared that a day's work should last only from 6 A.M. to 6 P.M. But the mores of an agricultural society accustomed to labor from dawn to dusk—and believing that idle time was an invitation to the devil—had too strong a grip on the young industrial community. As a consequence the 14- to 16-hour workday continued to be commonplace. The various trade-union societies, however, continued to agitate for shorter hours; and in 1840, as a result of their successful lobbying, President Van Buren signed the bill establishing the 10-hour day in government navy yards. This lead, however, was not quickly followed by industry. In some localities, the building trades and other craftsmen secured the 10-hour day in 1845, but with the exception of these skilled trades and child labor legislation in certain states, the 12-hour day continued to be the rule until the Civil War.

The period following the Civil War was marked by special interest in shortening the hours of work. The postwar depression had produced unemployment which was further aggravated by the return of soldiers to their civilian occupations. The growth of the national unions during this period provided a medium by which labor's fears could be made articulate. In the 1880's, the shorter-hour movement received a strong impetus

¹² C. R. Daugherty, *Labor Problems in American Industry* (New York: Houghton Mifflin Co., 1941), p. 196.

from the sponsorship of the Knights of Labor, which at the peak of its power succeeded in obtaining the 8-hour day for more than 200,000 men. However, the gain was only temporary. With the demise of the Knights, the 10-hour day again became customary, except for certain strategically situated workers who were able to use their bargaining power to secure shorter hours. Thus, not long after the formation of the American Federation of Labor, the carpenters and bricklayers won the 8-hour day in many cities; and in 1916 the Big Four Railroad Brotherhoods, by threatening a nation-wide tie-up, secured passage of the Adamson Act guaranteeing the 8-hour day for operating crews of railroads.

The high demand for labor during and immediately following World War I was reflected in reduced hours as well as in higher money wages. Average hours in all manufacturing fell from 55 hours in 1916 to 51 hours in 1920, the most rapid gain secured in the shorter-hour movement up to that time.¹³ In 1919 the spectacular strike against the 12-hour day in the steel industry mobilized public opinion behind the shorter-hour movement, but it was not until 1923 that the steel industry finally succumbed to this pressure and introduced three 8-hour shifts. In 1926 the American Federation of Labor adopted a resolution in favor of the 5-day workweek, and in 1927, Henry Ford inaugurated the 5-day work-week in all his plants. By 1929 the 8-hour day was firmly established in American industry, although the average workweek continued to be 6 days.

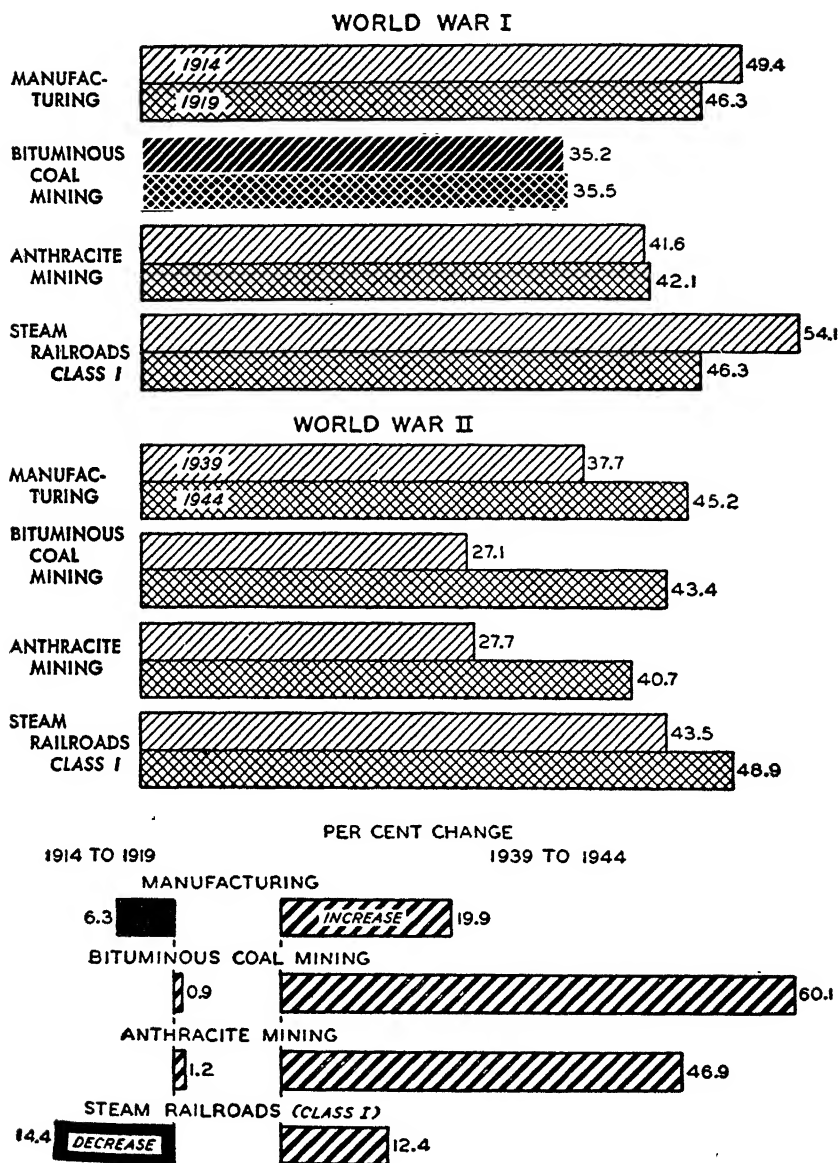
The mass unemployment of the great depression brought new urgency to the shorter-hour movement. Labor viewed the shorter workweek as a means of spreading available jobs over more persons and thus reducing the volume of unemployment. In some industries, the larger manufacturers were interested in finding a means of compelling small competitors to go along in a program of shorter hours and curtailed output. The result was the NRA with its industry codes. Under these codes, the 44-hour week was established in most industries and an important minority—among them electrical equipment, men's and women's clothing, coal, fur, petroleum refining—established the 36-hour week. It is estimated that as a result of these provisions, most employees covered by the codes received reductions in hours ranging from 8 to 10 hours a week.¹⁴ With the passage of the Public Contracts (Walsh-Healey) Act in 1936 and the Fair Labor Standards Act in 1938, the effect was to make the 40-hour week standard by October, 1940, for most workers engaged

¹³ P. Douglas, *Real Wages in the United States, 1890-1926* (New York: Houghton Mifflin Co., 1930), p. 116.

¹⁴ *Technology in Our Economy*, TNEC Monograph No. 22 (Washington, D.C., 1941), pp. 167-68.

FIGURE 35

AVERAGE WEEKLY HOURS IN MANUFACTURING, COAL MINING,
AND STEAM RAILROADS DURING TWO WARS



SOURCE: U.S. Bureau of Labor Statistics; National Industrial Conference Board, Inc.

in interstate commerce. Hours worked above the maximum of 40 hours were required to be remunerated at time and a half.¹⁵

The requirements of war production forced the first upward shift in the trend of hours. In contrast to the period of World War I, which saw hours reduced, the period of World War II was marked by a sharp increase. (See Figure 35.)

The wartime interruption of the downward trend in hours, however, was only temporary. Throughout World War II, the overtime provisions of the Fair Labor Standards Act remained in effect, and time and one half was paid for all work in excess of 40 hours a week. When hostilities ended, the 40-hour week again became the standard. Moreover, industries which were not covered by the hours provisions of the FLSA, such as air transport in 1945, railroads (nonoperating employees) in 1949, and some units of retail trade, went on the 40-hour week for the first time.

The 5-day week covered about 90 per cent of American industrial workers in 1956. A sizable percentage of American workers, especially those employed in offices in large cities, were actually working less than 40 hours by 1956 (see Figure 36).

Other Federal Hours Legislation

Besides the general hours regulations contained in the Public Contracts and Fair Labor Standards Acts, there are a number of federal laws relating to specific groups. There is, first, the Law of 1892, which established the 8-hour day for laborers and mechanics employed on public works whether these employees work directly for the government or for a private contractor.¹⁶ Then there are a number of laws which limit hours of transportation employees. The Hours of Service Act of 1907 prohibits the employment of railway operating crews for more than 16 hours in 24,¹⁷ and the Adamson Act of 1916 gave these employees the 8-hour day.¹⁸

A long series of laws affecting working conditions of seamen culminated in provisions regulating seamen's hours aboard ships in the Merchant Marine Act of 1936.¹⁹ The Motor Carrier Act of 1935 limits over-the-road motor truck operators to a 10-hour day.²⁰ And the Civil Aeronautics Act of 1938 limits the actual flying time of pilot crews of

¹⁵ See Chapter 17 for details of these laws.

¹⁶ *U.S. Code*, title 4d, secs. 321-26.

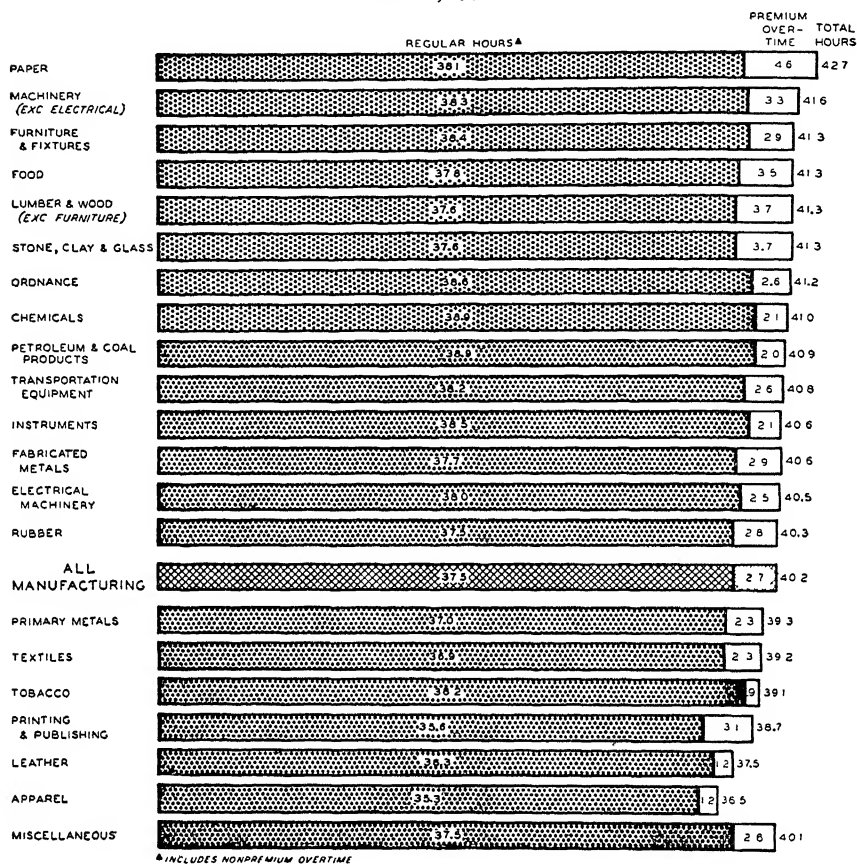
¹⁷ *U.S. Laws*, 1906-1907, c. 2939.

¹⁸ *U.S. Laws*, 1916, c. 436.

¹⁹ 46 U.S.C.A., sec. 673.

²⁰ 49 Stat. 546 (1935).

FIGURE 36

AVERAGE LENGTH OF WORKWEEK FOR PRODUCTION WORKERS IN MANUFACTURING,
AUGUST, 1956

Average hours worked or paid for comprise the workweek shown here. Hours include time for holidays, vacation, and sick leave. Premium overtime is that portion of average weekly hours in excess of regular hours and for which premium payments were made. If an employee works on a paid holiday at regular rates and is paid his holiday pay plus straight-time pay for hours worked that day, no overtime hours would be reported.

SOURCE Bureau of Labor Statistics.

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Reprinted from *Road Maps of Industry*, No. 1089 (November 9, 1956).

scheduled air lines to 85 hours a month for domestic operations, 350 hours in any 40 days, and 1,000 hours a year for international operations.²¹

State Legislation

State legislation regulating hours of work predominantly affects women and minors, or is limited to occupations which are either hazard-

²¹ Public Law No. 706, 75th Cong., sec. 401(2).

ous to employees or to the consuming public. Thus, all but five states²² place restrictions on the daily or weekly hours of work for women. The average daily limits are 8 to 10,²³ the weekly limits from 44 to 60, with 48 prevailing.²⁴ Some of these state laws provide for an absolute limit rather than for payments for overtime, but usually industries or occupations where overtime is a usual factor are either exempted by law, or by administrative action, or the limits are so high as not to be restrictive. In addition, twenty states and the District of Columbia require a day of rest in seven.²⁵ Sixteen states, the District of Columbia, and Puerto Rico prohibit, and two others regulate, night work for women.²⁶ Twenty states, the District of Columbia, and Puerto Rico regulate meal hours for women.²⁷

Only two states limit the hours of work generally. Mississippi sets a 55-hour week limit and a 10-hour day. Oregon provides for a 10-hour day and permits 3 hours overtime at time and one half the wage rate.

In addition, eleven states regulate the hours of work of men in certain factory employments,²⁸ and most states with mines regulate the hours of work underground. Finally, most states regulate hours of work on public transportation and on public works.

BASIC FACTORS AFFECTING THE TREND TOWARD SHORTER HOURS

This brief historical survey suggests that three classes of factors have influenced the movement toward shorter hours of work in American industry. The first may be called "social," including the impact of habit and custom. The mores inherited from a primarily agricultural pioneer-

²² Indiana, Alabama, Florida, Iowa, and West Virginia. Indiana prohibits night work by women in factories.

²³ The exceptions are Texas, South Carolina, Tennessee, and New Hampshire, which for some employment permit work from 10¼ to 12 hours.

²⁴ Oregon's limit is 60 hours, but state wage and hour commission may set a lower limit.

²⁵ Arizona, Arkansas, California, Connecticut, Delaware, Illinois, Kansas, Louisiana, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Washington, and Wisconsin.

²⁶ California, Connecticut, Delaware, Indiana, Kansas, Massachusetts, Nebraska, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, Washington, and Wisconsin prohibit, and Maryland and New Hampshire regulate night work.

²⁷ Arkansas, California, Colorado, Delaware, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, Utah, Washington and Wisconsin.

²⁸ Arizona, Missouri, Montana, Colorado, Nevada, New Jersey, New York, Georgia, Maryland, South Carolina, and Oregon.

ing community undoubtedly contributed to the view, so prevalent during the early years of the struggle for shorter hours, that work was a blessing and that long factory hours were a virtue rather than a vice. Similarly, the mixing in the labor market of immigrants with habits of work inherited from industrially backward nations rendered large masses of the working population relatively indifferent to the shorter-hour movement.

The second factor has been the influence of governmental legislation, both state and federal. Legislative regulation of hours has been of importance, particularly in recent years with NRA, Walsh-Healey, and the Fair Labor Standards Act all contributing substantially to hours reduction. State legislation has been an important factor in reducing the hours of work of women and children.

The third type of factor which has affected the shorter-hour movement is the economic, which may be classified further into four components: (*a*) the bargaining strength of labor; (*b*) the bargaining strength of employers; (*c*) the type of employment; and (*d*) the general level of economic activity. Thus we have seen that labor in the skilled building trades, by virtue of its strategic bargaining power, has constantly been able to win shorter hours well in advance of the national trend. On the other hand, where labor has been relatively unskilled and unorganized and has been confronted by large and powerful aggregations of capital—as in the steel industry—hours have remained long behind the general trend.

The record of particular industries in the movement toward shorter hours is, of course, in large part a reflection of peculiar technological and demand conditions associated with certain types of employment. Thus, one might expect that seasonal industries, where spoilage and other factors require peak production during a relatively short period, would encounter greater difficulty in reducing hours of work than the building industry. And, finally, the frequent recurrence in our industrial development of depression periods with large-scale unemployment has probably tended to organize public opinion behind the shorter-hour movement as a means of reducing unemployment.

The Role of Unions

Prior to 1932, the role of unions in winning shorter hours was limited. Nevertheless, unions did win shorter hours for certain key groups more rapidly than for workers generally, and unions certainly must be given credit for dramatizing the hours issue. But it appears that the competitive market mechanism deserves the prime credit for hours reduction prior to the New Deal era.

After 1932, unions played an increasingly important role in affecting the movement of hours, not only directly but indirectly through their lobbying in behalf of the Fair Labor Standards Act of 1938 and other more specialized legislation. Moreover, in most industries unions now require premium pay for week-end work, whether or not the number of hours exceeds 40 per week. This is a most effective method of curtailing any managerial propensity to add the week end to the work schedule.

Unions may also be expected to be a major influence in any future reductions in the workweek below the standard of 40 now required under the Fair Labor Standards Act. Nevertheless, the largest group of workers in 1957 whose regular hours were below 40 were the overwhelmingly unorganized white-collar workers in large metropolitan areas. Here again competition, not unionism, was the basic causative agent. The shortage of clerical help and the long commuting time now so typical of suburban living have combined to force these hours reductions in order to staff offices. Hours of 9 A.M. to 5 P.M. with an hour off for lunch now prevail in the big city office.

Some of the current union demands for a shorter workweek are aimed at meeting the new white-collar metropolitan office standards. Others appear aimed at a longer day with the 3-day week end. The union's demands, however, have one significant difference with the aforementioned white-collar situation—the unions appear more interested in reducing the point at which premium pay begins to something below 40 hours and then working the same total hours with resultant higher take-home pay than in just confining work to 9 A.M. to 5 P.M. or to Monday–Thursday. Before looking at the union position in detail and discussing its implications, let us examine the arguments advanced for shorter hours.

THE ARGUMENTS FOR SHORTER HOURS

The proponents for shorter hours generally base their arguments on four principal contentions: (1) the health of the population will be improved by a shorter workweek; (2) shorter hours mean increased leisure, which is not only good in itself but also will permit workers to purchase and enjoy the products of industry; (3) shorter hours will increase worker efficiency enough to offset the loss in work time; and (4) shorter hours are necessary to insure full employment.

1. HEALTH AND LEISURE

Shorter hours have frequently been advocated as a health measure. It is on this basis, for example, that the regulation of hours for women

and the regulation of hours in dangerous trades primarily rest. Regulation of hours in transportation is also partly based on this argument, although here it is the health and safety of the consumer as well as that of the worker which is protected.

The arguments based on health are more applicable to a longer workweek than 40 hours. Consequently, the proponents of a workweek shorter than 40 hours do not use the health argument much except in the cases of particularly dangerous or strenuous trades or occupations.

The effect of hours of work on the accident rate has been the subject of a number of studies, but these studies have two distinct limitations. First, no definite measurement is utilized by the studies, especially in comparing different types of work which subject workers to different risks of injury and different degrees of physical exertion and nervous strain. Second, the studies pertain to situations in which the workweek was lengthened over a previous standard which was at least 40 hours. In general, the results of these studies indicate a direct correlation between increased hours and accident rates, especially when the hours worked are increased beyond 50 per week and 10 per day.

It should be noted, however, that the effect of increasing hours from a previous norm is something different from the effects which might occur from decreasing hours from a given norm. For example, if hours were reduced from 40 to 30, there is no proof that the accident rate would fall to any appreciable degree. On the other hand, if workers were accustomed to 30 hours, and the workweek were suddenly increased to 40, adverse effects on the accident rate might well occur. This could happen because the living habits of people would be upset, meaning unsteady nerves and reduced alertness to accident hazards. Also it is possible that the tempo of production would be increased under a 30-hour week. The effect of an increase in hours from 30 to 40 could then induce excessive fatigue and more accidents.

2. PURCHASING-POWER THEORY

Organized labor has traditionally put forth the argument that increased leisure with earnings maintained would permit workers the time to spend more as consumers and thus would bolster the economy. It has also been maintained that more leisure would be helpful in encouraging citizens to participate in political and civic affairs, but this argument is not used as often today as in former years when hours of work exceeded 40.

During recent years, it has been customary for union leadership to

overemphasize the purchasing-power theory of the business cycle. Obviously if workers were employed 12 hours a day, they would not have much time to do anything else besides eat and sleep, and they would not make very good customers for that part of the industry which does not produce absolute necessities. Since only a very small portion of industry produces these absolute necessities, it is also obvious that demand must exist for the miscellaneous luxuries, semiluxuries, and other things which make up America's high living standards. Shortening the working day, so long as it does not impair earnings, may make workers better customers for these essentials and nonessentials of modern capitalistic production.

Certainly, as Figure 37 shows, the 5-day week and shorter working hours have greatly expanded spending for leisure. Moreover, the employee who works shorter hours receives a greater saturation of advertising over radio, television, and other media, and this may make him more desirous of spending to "keep up" or to enjoy the latest conveniences or luxuries.

But how much more the average worker will spend on consumption goods if his hours are reduced below 40 is not easy to determine. Since the average worker spends the bulk of his income on consumption goods, it may well be that he is about as good a customer for the nonessential items of industrial production as can be expected. Moreover, this leisure argument assumes, first, that the increased costs resulting from decreasing the hours will not adversely affect employment and therefore, in turn, adversely affect consumer expenditures; and, second, it also assumes the shorter-hour movement will not be simply a device to increase overtime pay. Where actual hours are not reduced but merely made more expensive by penalty overtime payments, the increased leisure argument is irrelevant; for here the workers' take-home pay, not the workers' leisure, is increased.

3. EFFICIENCY AND PRODUCTIVITY

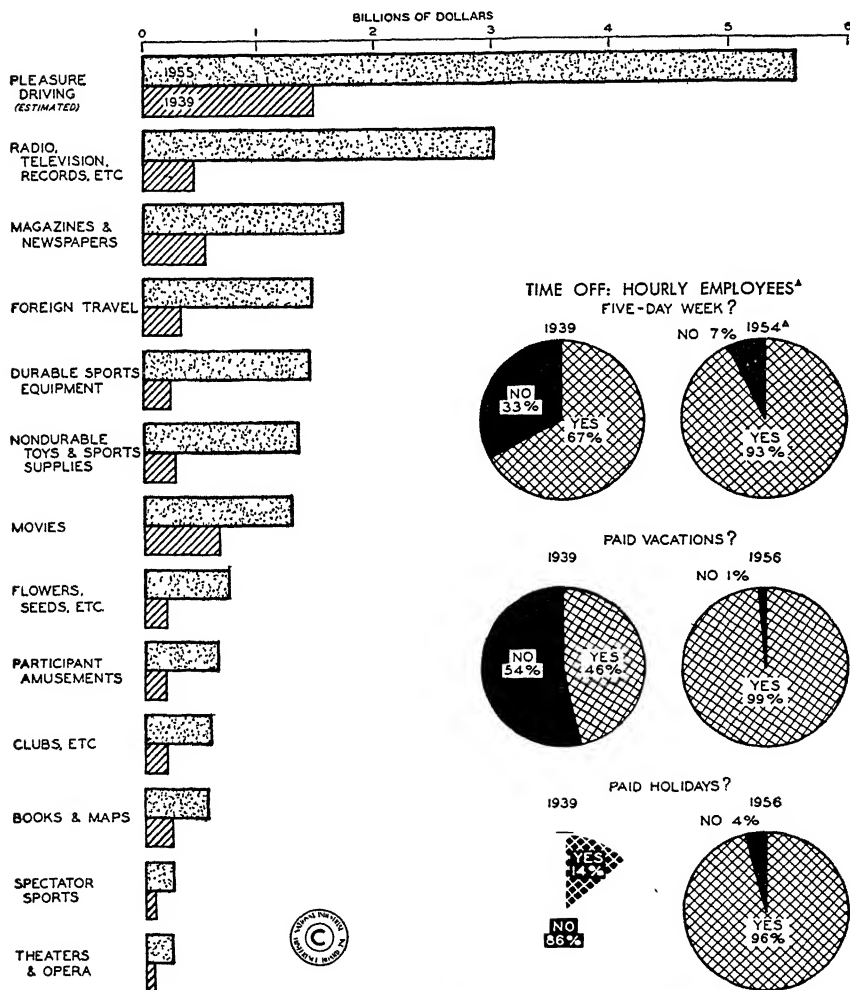
Historically, the reduction in hours of work has been accompanied by increases in productivity. As a result, the increased costs occasioned by shorter hours have not led to higher prices—at least over long periods of time.

The fact that shorter hours and increased productivity have marched hand in hand has given birth to the argument that reduced hours increase efficiency and/or productivity and hence absorb the increased costs of shorter hours, even if the shorter hours are accompanied by wage adjustments sufficient to maintain weekly earnings.

Productivity and worker efficiency are not necessarily synonymous terms. Productivity is not a measure of the man alone but of the man and his equipment. It is a statistic commonly measured by dividing output by man-hours worked. As already noted, rising labor productivity is largely a manifestation of the joint contribution of increasing capital, improved managerial technique, and scientific advance.

FIGURE 37

LEISURE TIME AND LEISURE SPENDING, UNITED STATES, 1939 VERSUS 1955



^ABASED ON PRACTICES AMONG FIRMS SURVEYED BY THE CONFERENCE BOARD
^BLATEST DATA AVAILABLE

SOURCES: Department of Commerce, Bureau of Public Roads; The Conference Board.
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 Reprinted from *Road Maps of Industry*, No. 1080 (September 7, 1956).

FIGURE 37—*Continued*

TECHNICAL NOTES

Pleasure driving: includes only automobile driving

Radio, television and records: include musical instruments, and radio and television repairs

Magazines, newspapers: include sheet music

Nondurable toys and sport supplies: durable toys and sport equipment. Include games, toys, sporting, athletic, and photographic goods and related products—these commodities divided roughly between the two groups on the basis of durability

Flowers, seeds: include potted plants

Participant amusements: include billiard parlors, bowling alleys, dancing, riding, shooting, skating, and swimming places, amusement devices and parks, golf course greens fees, golf instruction, club rental, and caddy fees, sightseeing buses and guides, and private flying operations

Clubs: include gross receipts, less cash benefits of fraternal, patriotic, and women's organizations except insurance; and dues and fees of athletic, social and luncheon clubs and school fraternities

Spectator sports: include admissions to professional baseball, football, and hockey events, horse and dog race tracks, college football, and other amateur spectator sports

Legitimate theaters and opera: include entertainments of nonprofit institutions (except athletics)

On the other hand, labor efficiency, as defined here, refers to changes in output resulting solely from changes in labor effort or input, other factors being held constant. Hence an increase in labor efficiency will result in an increase in productivity; but an increase in productivity does not necessarily mean that labor efficiency has increased.

Shorter Hours and Efficiency

Unfortunately, there have been few studies made of the effect of hours on labor efficiency, and those which are available deal mainly with increases in hours above rather than reductions below 40. In addition, most of the more important studies which attempt to relate efficiency and hours of work were made during World War II, when conditions were quite abnormal. Before these studies are summarized, the following reservations must be noted:

Patriotism undoubtedly increased worker efficiency when, under normal conditions, efficiency might have been less at longer hours.

In converting to war production, some companies installed improved machinery which increased productivity simultaneously with changes in work schedules.

Firms frequently lost key personnel to the armed services, and nearly all firms which expanded were staffed with unskilled and inexperienced labor.

Shortages of raw materials plagued many firms during the war and postwar periods.

These and undoubtedly other dynamic factors make a study of the relationship between shorter hours and efficiency difficult. Nevertheless, the studies revealed significant, if not perfectly conclusive, relationships between hours of work and output as regards: (1) the 7-day and 60-hour week; (2) the 5- versus the 6-day week; and (3) hours reduction below 40.

The Seven-Day Week

In the early stages of World War II, a number of plants in the United States and a larger percentage in Great Britain went on the 7-day week, with hours ranging from 44 to 72. The prewar standard in the United States was a 5-day, 40-hour week; in Britain, a 6-day, 48-hour week. Nevertheless, the experience with the 7-day week in both countries was very similar. For a time after the longer schedule was adopted, output increased. Then, as fatigue accumulated, weekly output fell to levels existing before the change, or even below that. Workers were found to have a tendency to pace themselves under different work schedules in order to avoid extreme fatigue. Where workers had no control of the speed of work, output increased under the 7-day week, but so did spoilage, sickness, and absenteeism. The unanimous conclusion of all studies was that the 7-day week and hours of 60 or more a week reduced the efficiency of labor and were uneconomical for business.²⁹

The Five- versus the Six-Day Week

The effect on worker efficiency of an increase from a 5- to a 6-day week and the effect of a decrease from the 6 to the 5 were also able to be examined as a result of the adjustments during and following World War II.

Table 28 shows the results obtained by the Bureau of Labor Statistics from a study of plants shifting from a 5-day to a 6-day week. In all but three of the plants, 40 hours constituted the basic workweek before the addition of the extra day's work. Of the three cases in which the basic workweek was 50 hours before the addition of the sixth workday, efficiency declined in two and improved in one when the sixth day was added. In the one in which efficiency improved (Case No. 31),

²⁹ U.S. Bureau of Labor Statistics, "Hours of Work and Output," *Bulletin No. 917* (1947).

TABLE 28

EFFECTS OF INCREASING WORKDAYS FROM FIVE TO SIX PER WEEK WITHOUT CHANGES IN DAILY HOURS

B L.S. CASE STUDY NO. AND TYPE OF WORK	NO OF WORKERS	SEX	DAILY HOURS	WEEKLY HOURS CHANGED		PERCENTAGE CHANGE IN—		EFFICIENCY	ABSENTEEISM RATE †		
				From	To*	Weekly Hours	Output		Percentage of Change	From	To
Machine-controlled pace:											
7a—Moderately heavy.....	39	Male	10	50	58	+16.0	+10.1	-2.1	7.0	4.5	
7b—Moderately heavy.....	50	Male	10	50	58	+16.0	+10.2	-1.0	7.0	8.1	
8 —Moderately heavy	700	Male	8	40	48	+20.0	+21.0	+1.0	1.8	‡	
Operator-controlled pace:											
51 —Moderately heavy.....	32	Male	8	40	44½	+11.3	+ 5.9	-1.9	1.2	4.2	
69 —Moderately heavy	21	Male	8	40	48	+20.0	+22.8	+3.5	.7	1.7	
70 —Moderately heavy.....	8	Male	8	40	48	+20.0	+21.4	+1.6	1.1	1.4	
71 —Moderately heavy	10	Male	8	40	48	+20.0	+20.8	+1.9	1.7	2.8	
74 —Moderately heavy	14	Male	8	40	48	+20.0	+22.8	+3.9	3.0	4.6	
31 —Light	10	Female	10	50	58	+16.0	+15.1	+1.2	6.8	7.7	
37 —Light.....	9	Male	8	40	48	+20.0	+22.8	+1.4	1.4	.5	
38 —Light	8	Female	8	40	48	+20.0	+14.9	- .4	3.0	6.8	
58 —Light	28	Female	8	40	46	+15.0	+10.7	-1.6	8.4	10.3	
72 —Light.....	13	Male	8	40	48	+20.0	+20.2	+ .8	1.0	1.7	
73a—Light.....	9	Female	8	40	48	+20.0	+17.9	+1.2	2.0	4.7	
73b—Light.....	9	Female	8	40	48	+20.0	+19.3	+7.3	2.0	9.2	

SOURCE: U S. Bureau of Labor Statistics.

* Where weekly hours are less than six times daily hours, shorter hours were worked on Saturday.

† Percentage of scheduled work time lost.

‡ Not determined

however, fundamental improvements in managerial organization appear to have been the cause.³⁰

In a majority of cases, the shift from the 40-hour, 5-day week to the 48-hour, 6-day week was accompanied by an increase in output directly proportional to the increase in hours; and in all cases, output increased to some extent. In the two cases in which a partial day rather than a full day was worked on Saturday, the increases in output were less than proportional to the increase in hours. This was also the case in a minority of the plants that shifted from the 40- to the 48-hour week. However, in all cases but five, the war emergency, the existence of wage incentives in a number of the plants, and, in some instances, the fact that production was at a moderate pace prior to the increase in hours prevented resentment on the part of the workers as well as excessive fatigue and the consequent lowering of efficiency. Two of the exceptions have already been noted where the 5-day, 10-hour schedule was previously in effect; two cases added only a partial sixth day; and there was one instance in which female labor efficiency declined in the change from 40 to 48 hours.³¹

On the other hand, the rate of absenteeism increased in the great majority of cases after the addition of the sixth day, particularly in the plants where female labor was used. The lack of time for shopping and household chores was undoubtedly the main reason for the increase in absenteeism. If stores and other services had not inaugurated special evening hours for war workers, undoubtedly the rate of absenteeism would have been still higher under 6-day operations.

The general conclusion of the Bureau of Labor Statistics report was that "the addition of the sixth day had no disadvantageous effect on output, provided daily hours were held to eight."³² Other studies support the conclusion that the 48-hour week was best for war production and that adding the sixth day had no ill effect unless the daily hours were excessive.³³ It should be noted again, however, that different results might occur if the 6-day week were inaugurated in peacetime.

After the war, many of the plants covered by the BLS survey resumed a normal 5-day week.

Although the increase in hours by the addition of a sixth day had resulted in an almost proportionate increase in weekly output in most cases, a decrease in hours was accompanied by less than a proportionate

³⁰ *Ibid.*, p. 13.

³¹ *Ibid.*, pp. 12-14.

³² *Ibid.*, p. 14.

³³ See H. R. Northrup and H. R. Brinberg, *Economics of the Work Week* (New York: National Industrial Conference Board, Inc., 1950), for supporting data.

TABLE 29

EFFECTS ON EFFICIENCY AND ABSENTEEISM OF DECREASING WORKDAYS FROM SIX TO FIVE WITHOUT CHANGES IN DAILY HOURS
(Pace Controlled by Operator)

B L S CASE STUDY NO. AND TYPE OF WORK	NO. OF WORKERS	SEX	DAILY HOURS	WEEKLY HRS. CHANGED		EFFICIENCY PERCENTAGE OF CHANGE	ABSENTEEISM RATE†	
				From*	To		From	To
1 — Heavy.	45	Male	10	60	50	+ 0.7	†	†
6 — Heavy.	16	Male	10	58	50	+ 4.9	4.7	4.2
3 — Moderately heavy.	15	Male	10	58	50	+ 11.2	5.0	5.5
29 — Moderately heavy.	33	Male	10	58	50	- 5.4	3.6	3.2
64a — Moderately heavy.	18	Male	10	58	50	+ 7.4	3.6	3.4
64b — Moderately heavy.	18	Male	9-10	58	45-50	+ 9.1	3.6	(a)
65 — Moderately heavy.	14	Male	10	55	50	+ 3.0	3.5	3.3
69 — Moderately heavy.	21	Male	8	48	40	+ 12.4	1.7	(a)
70 — Moderately heavy.	8	Male	8	48	40	+ 16.1	1.4	(a)
58a — Light.	28	Female	8-9	48	43	+ 5.0	10.7	16.7
58b — Light.	28	Female	8-9	46	43	+ 2.9	10.3	16.7
58c — Light.	28	Female	8	48	40	+ 3.7	10.7	8.4
59 — Light.	17	Female	8	48	40	+ 12.0	12.1	15.2
60 — Light.	25	Female	8	48	40	+ 6.9	13.7	13.8
61 — Light.	26	Female	8	48	40	+ 5.1	9.4	9.2
62 — Light.	25	Female	8	48	40	+ 1.5	6.4	9.6
63 — Light.	9	Female	8	48	40	+ 7.9	10.4	12.4
72 — Light.	13	Male	8	48	40	+ 12.6	1.7	†

Source: U S Bureau of Labor Statistics

* Where weekly hours are not six times daily hours, shorter hours were worked on Saturday.

† Percentage of scheduled work time lost.

‡ Not determined.

decrease in production. Tables 29 and 30 record the results of the cases studied. Table 30 uses part of the data shown in Table 29 but makes the figures comparable with Table 28.

TABLE 30
EFFECTS ON OUTPUT OF CHANGES IN WEEKLY HOURS BY INCREASING WORKDAYS
FROM FIVE TO SIX (DAILY HOURS CONSTANT,
PACE CONTROLLED BY OPERATOR)

CASE STUDY AND TYPE OF WORK	WEEKLY HRS. CHANGED		PERCENTAGE CHANGE IN		OUTPUT- INPUT RATIO
	From	To	Hours	Output	
1—Heavy	50	60	+20.0	+20.0	1.0
6—Heavy	50	58	+16.0	0	0
3—Moderately heavy	50	58	+16.0	- 3.2	-.2
29—Moderately heavy	50	58	+16.0	+23.8	1.5
64—Moderately heavy	50	58	+16.0	+17.7	0.5
65—Moderately heavy	50	55	+10.0	+ 6.5	0.7
58a—Light	43	48	+11.6	+14.2	1.2
58b—Light	43	46	+ 6.9	+12.0	1.7
58c—Light	40	48	+20.0	+12.9	0.7
59—Light	40	48	+20.0	+11.1	0.6
60—Light	40	48	+20.0	+12.2	0.6
61—Light	40	48	+20.0	+13.9	0.7
62—Light	40	48	+20.0	+22.4	1.1
63—Light	40	48	+20.0	+13.8	0.7

NOTE: This table is based on Table 28 but the computations are shown with the shorter schedules of hours as a base; i.e., as though the longer schedule had followed the shorter schedule.
SOURCE: U.S. Bureau of Labor Statistics.

Efficiency rose with the decrease in hours of work in all cases but one (Case Study No. 29). This plant retrenched at the close of the war, laying off many employees and slowing down its operations.³⁴

As in the increase of the workweek, so too in the decrease, absenteeism among men was little affected by the shift. Women's absences increased after both changes, in the latter instance probably because they lost interest in the work and were preparing for a resumption of household duties.

The most logical explanation advanced for the observed improvement in efficiency as hours of work were reduced was that workers who were paid on an incentive basis wished to make up lost take-home pay brought about by the elimination of time and a half for the sixth day.

Hours below Forty

A number of plants cut hours below 40 during the great depression and then continued at the shorter hours after employment conditions im-

³⁴ U.S. Bureau of Labor Statistics, *Hours of Work and Output*, Bulletin No. 917 (1947), p. 14.

proved. One of the most publicized of these cases occurred at the Battle Creek, Michigan, plant of the Kellogg Company, where four 6-hour shifts were substituted for three 8-hour ones as of December 1, 1930. The 6-day week was maintained. The Kellogg Company claimed that worker efficiency was improved because of: (1) reduced fatigue, (2) less tendency to succumb to monotony, (3) less waste of time, and (4) elimination of meal periods and the customary slower working rate before and after them.

Before inaugurating the changes, the management engaged in lengthy discussions with its employees, completely orienting them to the new plan. This alleviated the workers' fear or suspicion of the change and helped to make a smooth transition to the new schedules. At the same time, jobs and workers were carefully revaluated so as to be certain the right man had the right job; and base wage rates were increased by 12.5 per cent to 33.5 per cent. The wage adjustment did not compensate fully for the loss of 2 hours' work per day but was intended to provide employees with the same purchasing power which they enjoyed in 1928, or prior to the time when the depression set in.³⁵ The friendly attitude of the company at a time when other firms were indulging in layoffs and wage cuts no doubt provided a boost to morale and added to the incentive for raising production.

The 6-hour day still prevails at the Battle Creek Plant of the Kellogg Company, and it covers the majority of the employees there. The company's other plants are on an 8-hour day, 40-hour week.

As a depression palliative, the 6-hour day proved beneficial to workers and the company. But, as experience with this work schedule accumulated under varying degrees of utilization of plant and output, certain weaknesses became evident. The company's plants operate around the clock, and its operations are largely machine paced, so the short shifts provide little opportunity to reduce overhead costs. Furthermore, in order to avoid Saturday and Sunday work, weekly hours are generally held to 30 a week during a substantial part of the year. Despite the relatively high hourly rates of pay, the 30-hour week has meant that employees received lower pay than that of workers in similar industries. On a 40-hour schedule, even at lower hourly rates, the take-home pay would be enhanced—but the work force would be cut. To date, a majority of the employees apparently prefer the 6-hour day and have rejected suggestions for a return to the longer schedules prevailing in other firms in the industry. Twenty per cent are on an 8-hour day.

³⁵ "Operation of the 6-Hour Day in Plants of the Kellogg Co.," *Monthly Labor Review*, Vol. XXXII (June, 1931), pp. 148-55.

The rubber tire industry in the Akron, Ohio, area also converted to the 4-shift, 6-hour day from the 3-shift, 8-hour day, commencing in 1930. Likewise, this industry remained on a 6-day week. The reactions of rubber companies to the 6-hour day were varied. Some reported hourly productivity increases of from 5 per cent to 12 per cent after the 6-hour day was inaugurated. Some of the larger companies, however, expressed disappointment at the results of the 6-hour experiment, but their attempts to go back to an 8-hour day were successfully opposed by the newly formed United Rubber Workers' Union. Moreover, in those cases in which productivity increases were reported, new equipment and methods were frequently introduced at the same time as the 6-hour day. It was, therefore, not possible to determine the extent to which increased productivity resulted from increased labor efficiency and the extent to which other factors, such as new machinery or improved managerial organization, were responsible.³⁸

During World War II, the rubber industry returned to an 8-hour day, 6-day week, but at the termination of hostilities the 6-hour day, 6-day week was resumed in the Akron area, in one plant in Detroit, and in a few plants in Los Angeles. The rest of the industry, which never had adopted the 6-hour day, remained on an 8-hour schedule. In addition, one rubber plant in Los Angeles, which was on the 6-hour day prior to the war, decided by a vote of the local rubber workers' union to maintain the 8-hour schedule which was adopted during the war. In rubber plants which are on the 6-hour day, 36-hour week, time and one half is not generally paid until after 8 hours per day or 40 hours per week.

After this experience with the 6-hour day, 36-hour week, one company official, approximately half of whose employees are on the 6-hour day, stated to the authors:

As to efficiency and productivity, it was our feeling when we first initiated the six-hour day that there would be an improvement in man-hour production in the six-hour versus the eight-hour day. We didn't keep as accurate records on this as we should have but I do know that results were disappointing and that we cannot now find any evidence of increased man-hour efficiency of a six- versus eight-hour day. On the other hand, when we went from six to eight during the early stages of the war, we noticed no drop in man-hour efficiency, and again when we returned to six hours there was no noticeable increase in efficiency.

The only advantage that we can get from the six-hour day is that so long as we keep our overtime provisions on an eight-hour per day, forty-hour per week basis, we can operate our Akron plants six days per week without any overtime.

³⁸ John D. Gaffey, "The Productivity of Labor in the Rubber Tire Manufacturing Industry," *Studies in History, Economics and Public Law*, No. 472 (New York: Columbia University Press, 1940), pp. 98-103.

From a competitive standpoint between our own plants this is not as valuable as it might seem because of the fact that wage rates are much higher in Akron than they are in our outlying plants, with no greater man-hour efficiency and in some cases, less efficiency.

Another development of the 6-hour day in Akron is the tendency of workers to take extra jobs in off periods to supplement their incomes. Some work as taxicab drivers, and others work an additional shift in another rubber factory, etc. To the extent that such multiple employment exists, the 6-hour day can have no beneficial effects on efficiency except an adverse one resulting from workers overtired by trying to handle two jobs instead of one.

So important has two-job employment (or "moonlighting" as it is now termed) become in the Akron rubber industry and so detrimental has been this practice that the leaders of the United Rubber Workers made a determined attempt at the 1956 convention to eliminate the 6-hour day and go back to the 40-hour week. They were defeated precisely because the Akron workers did not want to give up the extra income which they gained from holding two jobs and working many hours over 40 per week. It would appear that in Akron the shorter workweek has resulted in longer hours than has the 40-hour week in the rubber industry elsewhere.

Actually, in most industries, a decrease in work hours from 40 to 36, or even to 30, is not likely to increase efficiency at all. This is true not only because the fewer the hours, the greater the tendency toward "moonlighting"³⁷ but also because of the very nature of the typical work process. The first and last hours of the workday are generally inefficient ones—the average person takes time to warm up to his work and time getting ready to stop. Under a 6-hour day, these two relatively inefficient hours become one third of the daily working time, as compared with one fourth under the 8-hour day. This might be overcome by abolishing lunch periods which mean further stopping and warming up times. But it would take a $33\frac{1}{3}$ per cent increase in labor efficiency to offset a reduction of 2 hours per day working time, other factors being held constant.

If efficiency is considered in terms of a worker's lifetime, it is possible that a 30-hour week might increase the number of working years and also increase the worker's efficiency in later life. For workers to enjoy a long efficient work life, however, industrial costs must be kept sufficiently low so as to stimulate industrial expansion. Sharp cost increases resulting from sharp hours reduction can reduce employment both immediately and in the long run, as will be pointed out in the next section.

³⁷ See Stephen Habbe, "Moonlighting and Its Controls," *The Management Record*, Vol. XIX (July, 1957), pp. 234-37.

Since, however, a worker is not chained to his job but is free to change his place of employment, the individual employer must concern himself primarily with the short-run effects of the reduced workweek. If the workweek is reduced below 40, therefore, other factors will not be held constant. Instead, management will make every attempt to offset any increased costs which would result from a reduced workweek by more efficient methods of operation and by the substitution of machines for men. The result may be an increase in productivity—but the increase will be brought about by improved production techniques rather than by increased labor efficiency. In that case, the employment objectives of the shorter workweek may not materialize because of technological unemployment. This possibility involves an analysis of the effects of the shorter workweek upon employment, which is the subject of the following section.

4. HOURS REDUCTION AND EMPLOYMENT

The precise method by which reduction in hours would increase employment has assumed varying forms in labor's arguments over the years, but that it would reduce unemployment has remained a basic tenet of labor philosophy. In the early days of the American Federation of Labor, its leaders were imbued with the idea that standard of living determined wages and that a reduction in hours, by providing leisure and increasing consumption demands of workers, would increase the wage level and stimulate production and employment. By 1909, however, productivity analysis had taken hold of union thinking, and the argument now ran that increasing per capita production made desirable a reduction in hours so that labor could share in the gains of industrial progress. In recent years, the notion that high wages are necessary to sustain consumption and avoid depression has become increasingly prominent in labor thinking. It remains to be determined whether labor leaders start with a problem, namely, unemployment, and then see in shorter hours a remedy; or whether they start with a preference, namely, shorter hours, and seek to rationalize or justify this preference, finding in technological and other forms of unemployment a convenient argument to fit their purpose. At any rate, reduction in hours of work, which has had a long history of advocacy by organized labor, has once again come to the forefront of labor's demands—this time with automation and the fear of technological unemployment once more the avowed rationale.

There are two points of view from which reduction in hours of work per day or per week can be examined as a remedy for unemployment. The

first is the effect of a reduction in hours without a change in the basic wage rate so that those workers previously employed now receive fewer hours of work and correspondingly reduced earnings. The second is the effect of a shortening of hours with compensatory increases in basic rates so that earnings for the shorter working time remain undiminished.

Shorter Hours with Unchanged Basic Wage Rates

With regard to the first possibility, it is obvious that jobs can be provided for the unemployed if employed workers are willing to reduce their hours and sacrifice their pay, but such a plan would involve a general reduction in the standard of living of all employed workers. This solution is unacceptable to labor as a long-run proposition, although in particular industries during depression, share-the-work plans have been inaugurated to spread the available work among the widest number of union members. The needle-trades unions, the boot and shoe workers, the textile workers, and the brewery workers customarily follow the equal division of work principle to spread out the burden of unemployment. The danger of such a policy, as noted in Chapter 6, is that if the unemployment is not cyclical but rather represents a permanent decrease in the demand for labor in a particular industry, a share-the-work policy based upon reduced hours of work attaches an unduly large supply of labor to the industry and converts the union into an instrument for reducing the standard of living of its members.

Nevertheless the basic idea that if hours are only reduced far enough, work can be provided for all, is an important element in union thinking regarding the problem of automation. This viewpoint is well expressed in the following extract from the *American Federationist*, official publication of the American Federation of Labor, written at the bottom of the great depression: "If the work week were universally thirty hours instead of forty-two, 23,000,000 persons would be employed to furnish 700,000,000 manhours of work. This would give jobs to 6,000,000 now out of work and leave 1,700,000 still unemployed. . . . A twenty-eight-hour work week would give work to all."³⁸

In actuality, however, the effect of shortening hours without compensatory adjustments in wage rates cannot be assessed by a mere arithmetical calculation. For example, it might be thought that as long as basic rates are unchanged, unit labor costs should likewise remain constant. But employers will have to add new workers who will require training and who may be less skilled than those already employed, so that the im-

³⁸ "The Thirty Hour Week: Recovery Standard," *American Federationist*, Vol. XL (1933), p. 182.

mediate effect of the plan is probably to produce some decline in the efficiency of labor. Moreover, in some industries, work sharing produces technical difficulties because where two groups of workers use the same machines, they are less likely to leave them in as good shape as if they use them exclusively.

But even if unit labor costs do not change, capital costs per unit of output will be increased in those plants which operate fewer hours per week after the shorter-hour program is inaugurated. Since fixed costs do not affect marginal costs, this change will not immediately alter the volume of employment. But the rise in fixed costs per unit will force marginal firms out of business and thus add to the amount of unemployment. Moreover the reduction in profits in all plants will make entrepreneurs somewhat more reluctant to invest, and therefore in the long run the level of employment may be further reduced.

On the demand side, the shortening of hours of work of employed labor may provide job opportunities for persons formerly on relief or receiving unemployment benefits. Whether this change will react favorably on consumer demand is arguable. Distribution of work may lead to an absorption of vacant housing through an increased number of marriages and undoubling of families. This should shortly lead to an increased demand for residential construction. Something like this may have happened in 1933 as a result of the shortening of the workweek. Vacancy declined from about 14 per cent to 5 per cent from 1933 to 1934.³⁹ However, the shortening of hours in 1933 was accompanied by wage adjustments so that the results may not be applicable to mere work sharing by itself. Where there are no compensatory wage adjustments, the earnings of those formerly employed full time will be reduced, and therefore an increase in consumer demand can only follow if the newly employed workers greatly expand purchases over what they had consumed while on the government payroll.

Reduction in Hours with Compensatory Wage Increases

On the whole, a program of shorter hours is unacceptable to labor unless it is accompanied by compensatory wage adjustments so that labor income is maintained. In advocating such a policy to reduce unemployment, organized labor has shown its customary bias in emphasizing the role of demand conditions and ignoring the more immediate repercussions of the increased hourly price of labor on costs and business profits.

³⁹ C. Roos, "Economic Theory of the Shorter Workweek," *Econometrica*, Vol. III (1935), p. 39.

Employers, by and large, can be expected to react to a program of reduced hours with compensatory hourly wage increases as they would react to any increase in marginal cost. Prices will tend to rise, a smaller output will be demanded, and ultimately a new equilibrium will be established at a lower level of output. In order to think this through, let us assume that the demand for labor under these circumstances in a particular firm has an elasticity of unity. If the union raises hourly rates 5 per cent and reduces hours of work by 5 per cent, it will have duplicated the readjustment that the employer himself would have made to the changed cost conditions. But since a new equilibrium has been established at the higher unit price of labor, there is no incentive to hire any additional labor. It is therefore clear that if the demand curve for labor in a particular firm has an elasticity of unity or greater, the re-employment objective of the shorter-hour movement must fail of accomplishment.⁴⁰

The precise value to be assigned to the elasticity of demand for labor has been the subject of some controversy among economists. On the whole, it seems likely that in depression periods when management is extremely sensitive to cost increases of any kind, the demand for labor is elastic at least in an upward direction. That is, a given percentage increase in wage rates will produce a more than proportional reduction in employment. One statistical study has found that the elasticity of demand for labor for the economy as a whole has had a value of approximately -4 .⁴¹ While there is room for disagreement as to the precise value of the elasticity of demand for labor, it seems likely that the reduction in hours must be substantially greater than the percentage increase in hourly wage rates if the immediate effect of the institution of the shorter working week is not to increase the volume of unemployment. The effect of the shorter hours of work with compensatory wage adjustments will depend upon the relation between three factors: (1) the percentage decrease in the hours of work; (2) the percentage increase in hourly rates; and (3) the

⁴⁰ Elasticity measures the relationship between the percentage change in quantity divided by the percentage change in price. If the price of labor rises 5 per cent and the employer reduces employment by 5 per cent, the "coefficient of elasticity" is said to be unity, or 1. If the percentage change in quantity is greater than the percentage change in price, the elasticity is greater than 1, and if the percentage change in quantity is less than the percentage change in price, elasticity is less than 1.

⁴¹ P. Douglas, *Theory of Wages* (New York: Macmillan Co., 1934), p. 152. The significance of the statistical conclusions of this study has been the subject of considerable controversy in the literature. See, for example, discussions by S. H. Slichter and J. Black in *American Economic Review*, Supplement, Vol. XVIII (1928), pp. 168-72; H. Menderhausen in *Econometrica*, Vol. VI (1938), pp. 143-58; D. Durand in *Journal of Political Economy*, Vol. XLV (1937), pp. 740-58.

elasticity of demand for labor.⁴² Thus, if the elasticity of demand for labor were equal to -2 (i.e., the volume of employment diminishes 2 per cent with each increase of 1 per cent in wage rates), and if the increase in hourly rates were 5 per cent, then the percentage reduction in hours would have to be more than 10 per cent if more workers are to be hired.⁴³

Effect of Increasing the Number of Shifts

More promising as a means of converting unemployment into leisure is the 6-hour shift, provided that the 6-hour shift means the use of two or more shifts per day. Suppose, for example, that a plant in a continuous process industry has been accustomed to run continuously for 5 days a week, using three 8-hour shifts. If this plant were to change to four shifts of 6 hours each, it would appear that employment would be increased. However, if each worker, now employed a shorter number of hours, wishes to keep his pay undiminished, it is evident that there will be a rise in labor cost per unit, despite the fact that the number of shifts has increased. The increased labor costs will be reflected in higher prices and a reduced total output, so that ultimately no permanent increase in employment may result from this changeover.

But there are circumstances in which the addition of another shift will tend to increase employment. The substitution of two 6-hour shifts for a previous 8-hour day, or perhaps for a longer day including some employment at overtime, will tend to reduce capital costs per unit by allowing management to work capital longer while labor works shorter hours. The decrease in total unit costs attributable to this influence will tend to offset the increase in unit labor costs occasioned by shortening the hours of work with compensatory wage increases, so that on balance profits may be unimpaired. This possibility has led one well-known labor authority to conclude: "It seems plain that if labor must be compensated for the reduction in hours, the only way to destroy unemployment by converting it into leisure is through a plan which permits industry simultaneously to achieve substantial savings in overhead."⁴⁴

While it may be conceded that the more intensive use of capital is a favorable factor, it should be recognized that if the increase in the num-

⁴² Another factor which should perhaps be taken into account is the effect of hours' reduction in drawing women into the labor market. Reduction in hours may increase unemployment if it makes jobs more attractive to women and hence increases the number of job-seekers.

⁴³ H. A. Millis and R. E. Montgomery, *Labor's Progress and Some Basic Labor Problems* (New York: McGraw-Hill Book Co., Inc., 1938), p. 507.

⁴⁴ S. H. Slichter, "Lines of Action, Adaptation and Control," *American Economic Review*, Supplement, Vol. XXIII (1933), p. 53.

ber of shifts does increase employment, it will have this effect only after a series of highly complicated long-run influences are set in motion. The spreading of overhead will not affect marginal costs, while the reduction of hours with increases in basic hourly rates will raise marginal costs. Hence as far as immediate price and output reactions are concerned, the change in the number of shifts does not alter the picture. Some plants will be forced out of business, while other plants in which the proportion of labor costs is relatively low and overhead costs relatively high will find their profits increased by the changeover to additional shifts. Ultimately, the number of plants in the industry undergoing the change will diminish, with a larger volume of business concentrated in a smaller number of firms, each using capital more intensively than was true before the shorter-hour program was inaugurated.

The ability to inaugurate an additional shift will vary considerably from industry to industry, and in those firms attempting it, the benefits obtained will vary depending upon the importance of overhead costs. In some plants where equipment is antiquated, working additional shifts may mean increasingly frequent breakdowns without adequate time for repairs. In industries which do not operate continuously, the amount of re-employment which can be provided by a shortening of hours of work will depend in part upon the availability of unused machinery and equipment. To the extent that less efficient equipment is brought into use, the upward pressure on costs is intensified.⁴⁵

Interindustry Shifts

A program of shorter hours with undiminished take-home pay would produce important changes in the demand for particular industries. The increased availability of leisure would probably be reflected in an increased demand for sporting goods and other recreational goods by which leisure could be made more enjoyable. Likewise the effect of the increased wage disbursements—assuming that there were some initial re-employment—would operate to stimulate the consumer-goods industries. At the same time, however, the nondurable consumer-goods industries would experience the greatest increases of cost relative to the rest of the economy, since it appears that the nondurable consumer-goods industries have higher ratios of wages to value added than do the capital-goods in-

⁴⁵ *The Shorter Workweek*, A Report of the Department of Manufacture Committee (Washington, D.C.: Chamber of Commerce, 1945), p. 15. For an analysis of the effect of the two-shift system in British industry, see H. M. Vernon, *The Shorter Working Week* (New York: E. P. Dutton & Co., 1934).

dustries.⁴⁶ Thus, in so far as the effect on costs is concerned, the former industries would be hardest hit by the combination of shorter hours and increased wage rates, while the capital-goods industries, having a higher ratio of capital costs, would be the ones to benefit most from the addition of extra shifts.

This combination of altered cost and demand positions would ultimately produce some readjustment in the disposition of the total labor force among the various industries in the economy. The net effect upon employment can only be conjectural. If wage disbursements increase initially as a result of the shorter hours of work with compensatory wage rate increases, it appears that a larger proportion of the national income would be spent on nondurable consumers goods than before the hours program was instituted. Two factors will contribute to this result. On the one hand, the total income of wage earners will increase if there is some re-employment, and the income of working people, particularly during periods of large-scale unemployment, is likely to be spent upon nondurable consumer goods. But as we have seen, these are the very industries which will feel most the impact of the shorter-hour program. Therefore, prices will rise in these industries relative to the general price level, but because of the relatively inelastic demand typical of these industries, the total receipts of the nondurable consumer-goods industries will probably increase. This augmented volume of expenditure concentrated in these industries will probably support a larger volume of employment than it would under its previous distribution, since the nondurable consumer goods are, according to some studies, more labor-employing than other industries.⁴⁷ At the same time, since the proportion of labor costs to total costs is less in the capital-goods industries than in the nondurable consumer-goods industries and since the adjustments resulting from the changeover to more shifts with shorter hours per employee may lead to a more efficient allocation of output concentrated in fewer plants, prices of machines should rise less than in proportion to consumer goods. This would stimulate the demand for laborsaving machinery and thus increase the volume of investment and employment.

Shortages of Skilled Labor

Any general uniform reduction in hours per week is likely to increase the number of bottlenecks which develop in production and therefore raise a barrier to full employment. A shortage of skilled workers in

⁴⁶ C. Roos, *NRA Economic Planning*, Cowles Commission Monograph No. 2 (Bloomington, Ind.: The Principia Press, 1937), p. 31.

⁴⁷ *Ibid.*

a key industry can have repercussions which produce unemployment throughout the economy. If the shorter-hour program is applied to skilled workers, management is faced by three alternatives, all of which are likely to react unfavorably upon employment generally. Management can, of course, employ the same skilled workers as before, but they now pay them additional overtime because of the shortening of the basic workweek. This would have the same effect as a wage increase and would therefore raise costs and prices. On the other hand, management can attempt to hire other workers and train them to fill these jobs, but these men will on the average be less experienced and make more mistakes so that labor cost per unit will tend to rise through their employment. Lastly, if management is unwilling or unable to find additional skilled help, bottlenecks and shortages will develop which will cause stoppages, depriving even the unskilled of their jobs.

The extent to which industry is dependent upon the supply of skilled labor was brought home clearly during the war years. It was also recognized in drawing up the various codes under the NRA. Thus a number of industries included exemptions from the shorter-hour program for certain classes of skilled labor. The code for the automobile industry provided for longer hours in the spring when the industry runs into shortages of skilled workers needed for full production of new models. Moreover, the shortage of skilled labor is to some extent a regional problem. The problem might present itself in a particularly acute form in small towns having available only a limited pool of labor. Thus a program of shorter hours must be undertaken with caution. In a key industry such as the construction industry, where costs are already at a high level and where full production is urgently needed, a drastic shortening of the workweek would have disastrous effects upon the economy at large. On the other hand, in other industries a reasonable shortening of hours, even if it does produce some rise in costs, can probably be accomplished without too difficult a readjustment. An appreciation of the various possible repercussions of a shorter-hour program indicates the danger of any general uniform shortening of hours accomplished by legislative decree.

Incidence of Shorter-Hour Program

In view of the increasing strength of organized labor in this country, it seems possible that within the next 10 years the average workweek in American industry will drop to 35 hours, with a 30-hour week prevailing in those areas in which declining demand and rapid mechanization have particularly reduced the demand for labor. Labor has not forgotten the lesson of war production which afforded a spectacular

demonstration of the great productive capacity of our economic machine. With over 10 million men under arms and two fifths of our national output diverted into war production, our economic machine was nevertheless sufficiently productive to be able to provide the civilian population with a greater total amount of commodities and services than was afforded them in such good prewar years as 1937 and 1939. Hence it is understandable why labor leaders are concerned with the possibility of continuously employing the full labor force at the current workweek.

Nevertheless, it should be emphasized that the union demands for a shorter workweek are actually demands that premium pay (time and one half the regular rate) commence after a shorter number of weekly hours worked than 40, as is now common. Union officials have themselves pointed out that "for every grievance we had now from a man who felt he was working too long, we had a hundred from people who thought they were not working long enough. They weren't getting enough overtime pay."⁴⁸ At a time when real wages are the highest in history, workers still compete for overtime work instead of accepting the benefits of leisure.

Moreover, any increase in wages resulting from a decrease in hours with pay maintained very quickly becomes a substantial one. In the automobile industry, at the average wage rate of \$2.35 per hour in August, 1957, a reduction in hours of only two—from 40 to 38—with take-home pay maintained would result in a wage increase of 12.4 cents per hour, or 5.3 per cent if only the 38 hours were worked. If, however, 40 hours were worked, with premium pay of time and one half for the last 2 hours, the increase per hour over the \$2.35 rate would be 18.6 cents, or 7.9 per cent.

But the avowed union goal is the 32-hour week. At the \$2.35 average wage rate, a reduction to 32 hours with take-home pay maintained would involve a wage increase of 58.8 cents, or 25 per cent; if then 40 hours were worked with 8 hours at time and one half, the net increase would be 88 cents per hour, or 37.5 per cent, to maintain a 40-hour schedule.

Increased substitution of machines for men through automation could offset some of these costs. But the substantial new investment required by automation could be discouraged by these increased wage costs. In addition, the capital investment resulting from new automated equipment increases fixed costs so substantially that it is doubtful if many plants can operate economically under a shorter workweek. This could accelerate

⁴⁸ George W. Brooks. "Why a Shorter Workweek," *Management Record*, Vol. XIX (April, 1957), p. 127. Mr. Brooks is Director of Research and Education of the Pulp, Sulphate and Paper Mill Workers.

a trend toward economic concentration and possibly increase rather than diminish technological unemployment.

Undoubtedly the most desirable manner of attaining full employment would be through high-volume production so that labor would be fully employed 40 hours a week and the community could benefit from technological progress in the form of a rising level of real income. From the point of view of maximizing national welfare, increasing leisure for organized labor, obtained by reducing hours of work below 40 a week, can hardly be preferred to rising real income for the whole community. But if conditions make it impossible to attain full production and full employment on this basis, and as a consequence unemployment develops, then other means may have to be considered of utilizing the labor force. One economist has summed up the dilemma in these words: "Granted that full employment at a thirty-five hour week is less desirable for the nation than full employment at a forty hour week, it does not follow at all that full employment at thirty-five hours is worse than seven-eighths employment (seven million unemployed) at forty hours."⁴⁹

The crux of the problem is, of course, whether full employment could in fact be attained at the 35-hour level or whether the rise in costs attributable to the program of shorter hours with less work would not so depress business confidence that investment would be discouraged and hence unemployment would prevail even at the shorter workweek.

Unfortunately, examination of past events is not very helpful in ascertaining the precise effect which a shortening of the workweek has on employment, because it is impossible to disassociate the effect of the curtailment in hours from other circumstances which affected the general economic milieu. There have been two periods of sharp downturn in hours of work—the first during World War I when the average full-time workweek fell from 55.1 to 51 hours and the second during the NRA when the establishment of a 40-hour workweek meant a reduction for most workers of 8–10 hours a week.⁵⁰ The Federal Reserve Adjusted Index of Industrial Production (based on 1923–25 equals 100), which had risen from 59 in March, 1933, to 100 in July, 1933, dropped after the inauguration of the NRA shorter-hour program to 72 in the following November.⁵¹ However, it hardly seems fair to term this—as have some

⁴⁹ B. Graham, "The Hours of Work and Full Employment," *American Economic Review*, Vol. XXXV (1954), p. 434.

⁵⁰ *Technology in Our Economy*, TNEC Monograph No. 22 (Washington, D.C., 1941), pp. 167–68.

⁵¹ *Federal Reserve Bulletin*, May, 1934, p. 286. The effect of spreading of work is seen in the fact that while production was decreasing, employment in manufacturing industries, as measured by the U.S. Bureau of Labor Statistics Index, rose 3 per cent from July,

economists—an experiment which was “dramatic and conclusive”⁵² in indicating the effect of a reduction in hours and an increase in wage rates. The year 1933 was unique in many respects, and the effect of a shortening of hours at such a time might be quite different from that of a similar program pursued under more propitious conditions.

Nevertheless, as our earlier theoretical analysis has indicated, economic theory suggests that increasing leisure for the workingman can only be purchased at some cost to the economy in terms of the optimum utilization of resources.⁵³ Less work means less output; higher costs mean a further deterrent to investment expenditure. Society may consider this a fair exchange, but at any rate the program to reduce hours of work should not be undertaken without a full realization of the possible impact of the movement upon employment and production.

QUESTIONS FOR DISCUSSION

1. Is there a competitive tendency toward reduction of hours of work? Evaluate the importance of governmental legislation and union organization in shortening hours of work.
2. Discuss the relationship of hours reduction and efficiency. What are the advantages and disadvantages of a 6-hour shift?
3. Discuss the effect of a reduction in hours upon employment in an individual firm, assuming (a) no compensatory wage increases; and (b) compensatory wage increases.

SUGGESTIONS FOR FURTHER READING

“Economics of the Work Week,” *Proceedings*, Industrial Relations Research Association, 1956, pp. 196–229.

A symposium analyzing the theoretical effects of shorter hours.

“The Shorter Workweek,” *Management Record*, Vol. XIX (April, 1957), pp. 122–33.

An expression of views by union and management representatives.

UNITED STATES BUREAU OF LABOR STATISTICS. “Hours of Work and Output,” *Bulletin No. 917* (1947).

A statistical analysis of the effects of changes in the workweek during a war period.

1933, to December, 1933. *Federal Reserve Bulletin*, May, 1934, p. 271. By September, 1934, employment was about 4 million greater than in June, 1933. One investigator attributes about 2 million of this increase to the NRA and its work-spreading plan. See C. Roos, *NRA Economic Planning*, Cowles Commission Monograph No. 2 (Bloomington, Ind.: The Principia Press, 1937), p. 145.

⁵² B. M. Anderson, in Paul T. Homan and Fritz Machlup (eds.), *Financing American Prosperity* (New York: Twentieth Century Fund, Inc., 1945), p. 23.

⁵³ Of course, reduction in hours of work may itself contribute to a more nearly optimum distribution of resources in so far as it brings about an adjustment between work and leisure more closely approximating labor's own preferences.

PART VI
*Economics of the Search
for Security*

Chapter 19

SECURITY FOR THE AGED

"The nineteenth century was characterized by the expansion of freedom; the twentieth is characterized by the search for security. The contemporary grave concern over . . . [the best methods of providing security] . . . derives in part from the difficulties of achieving the main goal of the current century while preserving the principal accomplishment of the last . . ."¹

In this chapter we shall examine the primary methods and issues involved in providing security for the aged and the retired; in Chapter 20, the methods and issues designed to provide security against unemployment will come under scrutiny; and in Chapter 21, we shall discuss security measures for the sick and injured. The search for security of the aged, the unemployed, and the ill have all led to both governmental and trade-union attempts at mitigation of the problems faced by these groups in the labor market. In this and the ensuing two chapters, the relative merits of the governmental versus the trade-union solution, and the possible co-ordination of the two approaches, will be examined.

SOCIAL SECURITY SUMMARIZED

Despite the fact that the United States is the richest country in the world, and despite the high repute which our folklore accords to the person who saves, the fact remains that Americans cannot save enough to care for all contingencies of loss of income because of old age, death of breadwinner, unemployment, or illness or accident. More than one third of American families do not save at all, and the 20 per cent with the highest incomes account for 60 per cent of all savings.² Moreover, those who do save need their savings for other necessities—housing, children and their education, etc.

¹ Professor Clark Kerr, addressing the National Industrial Conference Board, November, 1949, New York City.

² Data from Federal Reserve surveys of income and saving.

The depression which began in 1929 forcefully called attention to the need for an over-all, national, or social approach to the problems caused by loss of income to the family. To be sure, some attack had already been begun prior to 1929 on the need to supply an income to the family when the breadwinner no longer could produce a paycheck, but the pre-1929 approach was confined largely to compensating the worker for loss sustained in accidents suffered at the place of work—workmen's compensation. It was not until 1935, with the passage of the Social Security Act, that an over-all program was begun to deal with loss of income because of old age, death of breadwinner, or unemployment. The 1935 law was modified and expanded in 1939. And in each election year beginning with 1950, significant amendments have been enacted. Despite the many changes, the double-pronged "insurance-assistance" approach to the alleviation of economic security, which was originally adopted, is still in effect today.

Social Insurance versus Public Assistance

The essential difference between social insurance and general public assistance or relief measures is, first, that under social insurance "the law specifies with precision the conditions governing eligibility, and the nature and amount of the benefit. Second, the specific conditions do not include a requirement to undergo a test of means or need."³ Benefits under social insurance are, therefore, predictable, whereas those under public assistance are not, since the discretion of the program administrator in determining whether or not to grant assistance, and if so, how much, must be very great. In other words, citizens who meet specified eligibility requirements under the law have a right to social insurance; but citizens must establish a need or prove that they are worthy in order to secure public assistance.

In actual practice, the borderline between insurance and assistance is not always precise. Thus under the various unemployment compensation systems, receipt of insurance is sometimes dependent upon lack of opportunities for "suitable work." The meaning of this term permits administrative discretion which can be used to deny benefits to those who might otherwise be eligible for benefits.

It should be noted that social insurance and other forms of social security measures are not necessarily antagonistic but rather can and should be complementary. "Social insurance deals with *presumptive*

³ Eveline M. Burns, *The American Social Security System* (Boston: Houghton Mifflin Co., 1949), p. 31.

rather than with *demonstrated* need, and is a social institution dominated by a concept of *average* rather than *individual* need. This characteristic of social insurance limits the extent to which this form of social security can deal with the total problem of family economic insecurity. A program dealing with average conditions and needs will always have to be supplemented by a system of public assistance to provide for emergencies and special needs."⁴

In addition to insurance and public assistance, two other types of benefits are utilized in the American social security system: status benefits to veterans, which World War II and the Korean war have made very important; and work relief, such as was used by the Works Progress Administration (WPA) during the 1930's but which has not been a factor since that time.

Table 31 summarizes the American social security program in terms of beneficiaries and benefits for selected years. Examining Table 31, we find that *social insurance* is used as a means of protecting a majority of the labor force against the risks of old age and loss of breadwinner; against the risks of unemployment; against loss of earnings because of occupational accidents or diseases (workmen's compensation); and in four states against loss of earnings because of illness however contracted. Beginning with 1957 the risk of total and permanent disability is also protected under social insurance.

The public assistance programs are of two kinds: *special public assistance*, which attempts to meet the needs of specific groups, that is, aged persons not covered by Old Age, Survivors, and Disability Insurance (OASDI), dependent children, the blind, and the permanently and totally disabled; and *general public assistance*, which is a last-resort measure given to those who are not eligible for other programs and are in need. The social security type in use besides social insurance and special and general public assistance is the *veterans' security program*, designed to provide, regardless of need, for soldiers, veterans, and their families in the event of death, disablement, or incapacity attributable to military service, or unemployment following discharge.

The material in Table 31 also emphasizes the variety of programs which are included in the American social security system. For example, a person who suffered loss of income because of age may be eligible for old-age insurance under the Old Age, Survivors, and Disability Insurance program, either in his own right or as the aged dependent or survivor of a beneficiary; if a railroad man, he may be entitled to a pension under the Railroad Retirement Act; or he may apply for Old Age Assis-

⁴ *Ibid.*, p. 36.

TABLE 31

RECIPIENTS AND BENEFITS UNDER SOCIAL SECURITY AND RELIEF PROGRAMS, SELECTED YEARS, 1940-56

PROGRAM	PAYMENTS IN MILLIONS OF DOLLARS						RECIPIENTS IN THOUSANDS					
	1956	1955	1954	1950	1946	1940	1956	1955	1954	1950	1946	1940
Total	15,993	14,853	13,781	8,699	6,942	4,245						
Social insurance and related programs	13,132	12,096	11,128	6,304	5,759	1,540						
Old-age retirement	5,915	5,129	3,947	1,403	741	326						
Old-age survivors and disability insurance	4,361	3,748	2,698	651	222	17	6,190.9	5,433.2	4,589.6	1,918.1	842.7	77.2
Railroad retirement	380	336	325	177	118	83	347.3	329.2	307.7	174.8	139.7	102.0
Other	1,174	1,045	924	574	401	226	698.4	646.9	607.1	450.8	353.4	223.0
Survivorship:												
Monthly benefits	2,241	2,065	1,739	902	529	162		2,096.6	1,891.9	1,093.9	661.0	35.7
Old-age survivors and disability insurance	1,244	1,108	880	277	128	6	2,282.3	1,196.5	1,072.2	136.3	4.5	3.0
Railroad retirement	133	122	93	44	2	1	211.5	196.5	167.2	991.7	790.5	323.2
Veterans' pensions and compensation	699	688	629	492	334	106	1,173.9	1,152.9	1,122.2	58.3	34.4	25.0
Other	165	147	138	89	65	48	130.2	120.2	108.2			
Lump-sum payments	197	196	174	87	75	37						
Disability	3,267	3,175	2,975	2,444	1,536	481						
Railroad retirement	111	103	104	77	31	31	89.8	87.1	84.9	76.0	39.3	39.3
Veterans' pensions and compensation	2,051	1,982	1,842	1,675	1,212	298	2,682.4	2,610.8	2,527.7	2,310.8	2,010.1	580.9
Workmen's compensation	525	520	498	362	250	129	n a	n a	n a	n a	n a	n a
Other	600	570	531	330	43	23	319.9	309.2	296.2	216.3	55.9	29.8
Unemployment	1,512	1,531	2,292	1,466	2,629	535						
State unemployment insurance	1,381	1,350	2,027	1,373	1,095	519	1,037.0	1,099.5	1,614.9	1,305.0	1,152.2	982.4
Railroad unemployment insurance	70	93	157	60	40	16	47.6	63.1	110.4	76.8	52.7	41.5
Servicemen's readjustment allowances	61	88	108	33	1,491	50.7	50.7	72.4	89.3	32.1	1,359.3	41.5
Self-employment allowances				2	252					1.5	229.4	
Public assistance programs	2,861	2,757	2,653	2,395	1,183	1,035						
Old-age assistance	1,677	1,608	1,593	1,470	822	475	2,514.0	2,553.0	2,565.0	2,789.0	2,196.0	2,066.0
Aid to dependent children *	663	639	594	554	209	133	616.0	603.0	604.0	652.0	346.0	370.0
Aid to the blind	77	71	68	53	31	22	107.0	105.0	102.0	98.0	77.0	73.0
Aid to the permanently and totally disabled	177	156	137	8			269.0	244.0	224.0	69.0		
Other	198	214	198	295	121	405	305.0	314.0	351.0	413.0	315.0	1,239.0
Federal work programs						1,670						2,869.0

NOTE. Data are partly estimated by the Social Security Administration. Lump-sum survivorship payments are made under old age, survivors, and disability insurance, railroad retirement, federal, state, and local government retirement, and the veterans' program.

Recipients represent average monthly number for social insurance, number in December for public assistance and Federal work programs. Under "other" programs, specific risks included are as follows: (1) Old-age retirement covers federal civil-service programs, other federal contributory programs, federal noncontributory retirement programs, state and local government programs and pensions under the Veterans Administration program to Spanish-American War veterans retired for age. (2) Survivorship statistics are for federal civil service, state and local government, and workmen's compensation. (3) Disability includes federal civil service, state and local government, and sickness compensation under the four state laws and the federal railroad unemployment insurance law. Sick benefit payments began in April, 1943, in Rhode Island; in December, 1946, in California, in January, 1949, in New Jersey; in July, 1950, in New York; and in July, 1947, for railroad workers. (4) Public assistance represents subsistence payments to farmers under the Farm Security Administration program (through June, 1942) and general assistance payments to the needy.

Federal work programs include projects of Works Progress Administration, Civilian Conservation Corps, National Youth Administration, and other projects financed from emergency federal funds.

*The recipient data represent the number of families receiving aid to dependent children. The number of children in receipt of such aid is as follows: 1940, 891,000; 1946, 885,000; 1950, 1,662,000; 1952, 1,495,000; 1953, 1,464,000; 1954, 1,640,000; 1955, 1,661,000; and 1956, 1,732,000.

n a — Not available.

SOURCE: Social Security Administration; The Conference Board.

tance (OAA). In addition, veterans drawing disability payments continue, of course, to receive these when they are old.

Benefits payable to those who have lost a breadwinner are equally varied, with the OASDI, Railroad Retirement, assistance, and veterans' programs all having a role. Insecurity because of unemployment is less involved (and less adequately provided for) but is covered by three programs: state unemployment compensation, a railroad plan, and status benefits for veterans. Loss of earning power because of accidents on the job is handled largely by state workmen's compensation programs which vary greatly in coverage and protection. In addition, four states and the railroad program have benefits for loss of earning power due to temporary sickness disability however contracted, and the railroad program includes permanent disability insurance as well. As already noted OASDI provides such benefits too, as of 1957. Aid for a specific disability, blindness, is available in all jurisdictions, and aid for permanent and total disability is given in 46 of them. Dependent children have special provisions made for them if the breadwinner cannot support them because of mental or physical incapacitation.

Another feature of the American social security program is the variety of governments involved. Old Age, Survivors, and Disability Insurance is wholly a federal program; Old-Age Assistance and other special assistances involve both the federal and state governments, as does unemployment compensation, but the unemployment program is almost completely run by the states. Workmen's compensation is wholly a program of the states, except for small segments of employees covered by federal laws. General assistance involves local governments, but the states are parties to these programs in varying degrees. Finally, even when the federal government alone is involved, there is no unity of administration. Thus, by virtue of their political power, the railroad unions have secured separate and superior social security arrangements for themselves, and civil service employees also have a special retirement program exclusive of the general system.

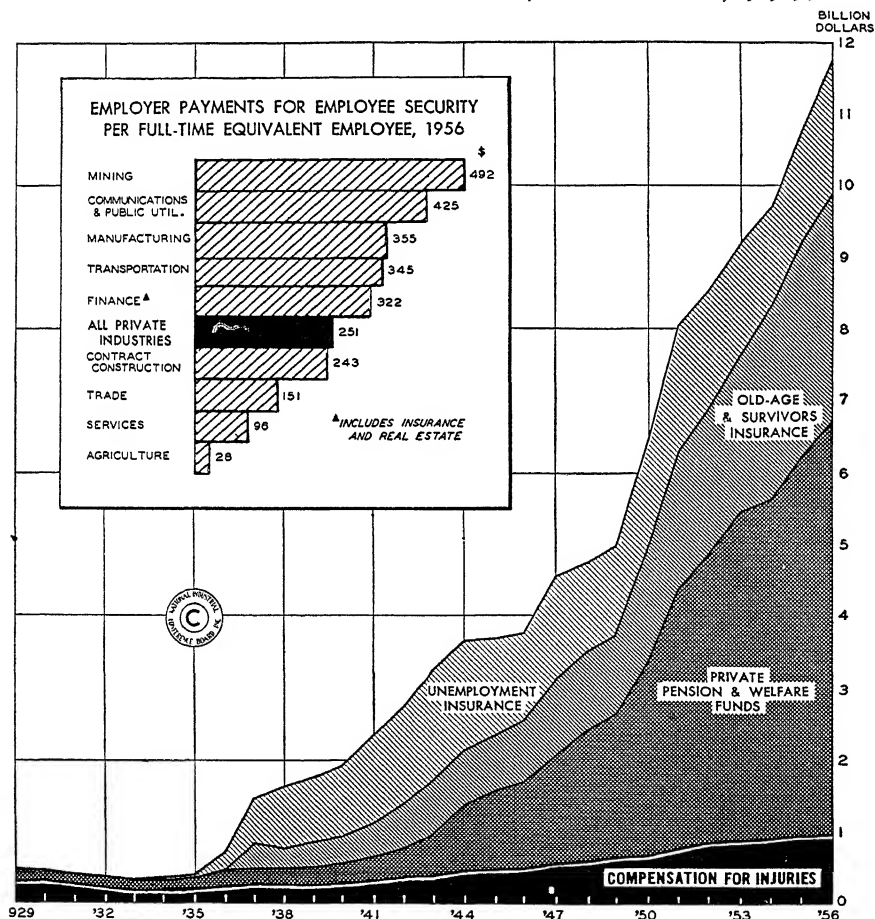
Altogether it is difficult to imagine a more complex system than our American social security program. Moreover, for each type of social security there is a private remedy attempting, either in competition or in supplementation, to operate with the social program, with an ever-increased payroll cost to industry (See Fig. 38). This complexity makes it impossible to do more than to highlight the outstanding features and issues of the social security program and of the basic union programs seeking the same ends as the social security program. The student who is interested in some of the special problems of the railroad system, of

veterans' benefits, or of general public assistance should consult a more specialized study of social security.

THE PROBLEM OF OLD AGE

Rightly or not, employers generally prefer younger workers to older ones. It is generally believed that efficiency and capacity for work de-

FIGURE 38
EMPLOYER PAYMENTS FOR EMPLOYEE SECURITY, PRIVATE INDUSTRY, 1929-56



Payments by employers in private industry for the security of their employees have risen from less than half a billion dollars in 1929 to almost \$12 billion in 1956 (an average of \$251 per full-time equivalent employee). This cost to industry accounted for nearly 6 per cent of total employee compensation (including supplements) in 1956 compared to 1 per cent in 1929. Nearly half the total payments made last year were for private pension and welfare funds.

SOURCES: Department of Commerce; NICB.

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Reprinted from *Road Maps of Industry*, No. 1134 (September 20, 1957).

FIGURE 38—*Continued*

	Compensation For Injuries	Private Pension and Welfare Funds	Old-age and Survivors Insurance(1)	Unemployment Insurance(2)	Total Payments(3)	Total Payments As Per Cent of Compensation of Employees
(Millions of Dollars)						
1929.....	271	169	—	—	440	1.0%
1930.....	271	160	—	—	431	1.0
1931.....	239	158	—	—	397	1.2
1932.....	199	148	—	—	347	1.3
1933.....	173	140	—	—	313	1.3
1934.....	181	166	—	3	350	1.2
1935.....	193	180	—	7	380	1.2
1936.....	219	238	—	240	697	2.0
1937.....	249	218	350	677	1,494	3.7
1938.....	240	228	315	882	1,665	4.6
1939.....	239	248	349	953	1,789	4.5
1940.....	261	282	396	978	1,917	4.4
1941.....	302	314	499	1,215	2,330	4.3
1942.....	352	401	630	1,349	2,732	4.0
1943.....	388	586	754	1,547	3,275	4.0
1944.....	427	948	788	1,490	3,653	4.2
1945.....	460	1,132	770	1,315	3,677	4.3
1946.....	477	1,231	850	1,216	3,774	4.0
1947.....	540	1,555	1,051	1,384	4,530	4.1
1948.....	594	1,810	1,122	1,218	4,744	3.9
1949.....	621	2,024	1,093	1,258	4,996	4.2
1950.....	645	2,743	1,590	1,480	6,458	4.9
1951.....	769	3,582	1,941	1,756	8,048	5.4
1952.....	836	4,019	2,034	1,642	8,531	5.3
1953.....	886	4,598	2,129	1,615	9,228	5.3
1954.....	912	4,729	2,672	1,398	9,711	5.7
1955.....	951	5,268	3,015	1,527	10,761	5.8
1956.....	983	5,709	3,186	1,852	11,730	5.8

(1) Includes contributions for federal old-age and survivors insurance and railroad retirement insurance.

(2) Includes federal unemployment tax, contributions for state unemployment insurance, railroad unemployment insurance and state cash sickness compensation funds.

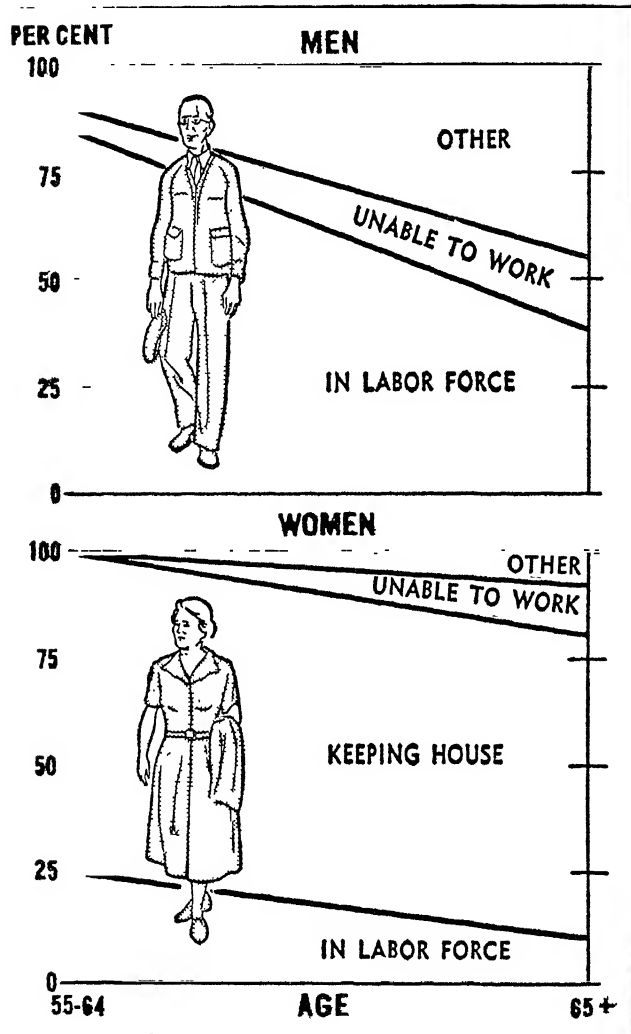
(3) Excludes corporate directors' fees and merchant marine war risk, life and injury claims, which are included as supplements to wages and salaries in the National Income Accounts.

clines with age, but opinion differs as to the precise age at which this occurs, the magnitude of the decline, and how it varies between occupation and industry.⁵ (See Figure 39.) The man out of work and in his late 40's or 50's can testify to the difficulty of finding a new job. Whereas the professional person frequently reaches his earning peak after age 50, the industrial workers' earnings may be on the decline by that time, although union seniority rules often do place the older worker in the top earning spot in his class.

The economic problems of the older worker have become more serious in recent years because of the aging of the population. The num-

⁵ The Bureau of Labor Statistics has recently attempted to find answers to these questions in connection with its older worker program. See "Job Performance and Age A Study in Measurement," *Bulletin No. 1203*, 1956

FIGURE 39
AGE TAKES TOLL OF WORKERS



Graph compares the ability to work of men and women in the age group 55-64 with those in age group 65 and over.

SOURCE. *New York Herald Tribune*.

ber of aged (those 65 and over) has increased both actually and relative to the number of persons of working age (20-64 years), and this increase is expected to continue throughout most of the twentieth century. In 1900, there were almost thirteen persons in the working group to one over 65; by 1950, this ratio had declined to seven to one; and by the year 2000, it may drop to four to six aged 20-64 to every one past 65. In

addition, with compulsory retirement at 65 in many industries (of which more will be said later), a smaller percentage of those over 65 are now working than was formerly the case. In terms of real numbers, the increase in the aging population is equally significant. In 1900, there were 3 million over 65; in 1950, 12 million; by the year 2000, there are expected to be 29–35 million in this category.⁶ The old-age group, aided by advancing medical science, is an ever-increasing one.

Another factor which has accentuated the problem of old age is the increased urbanization of the population. Whereas we were once a predominately agricultural nation, now more than two thirds of the population resides in urban communities. There is less room for aged grandparents in the smaller city dwelling than there once was in the farmhouse; and it is more difficult and costly to provide necessities for the aged in the city than in the rural areas where the food is grown on the farm.

When workers reach an age when they can no longer produce efficiently, it is certainly inhuman just to discharge them. Progressive employers of generations ago established the first pensions for just this reason. To be sure, the worker was supposed to make provision for himself through savings. But farsighted employers realized that worker morale was improved, and the employer's reputation as a fair manager enhanced, if a pension plan was established.

As higher standards of what is just and desirable developed, the need to provide for the aged worker became a community one. Because the worker who was not provided for became a public charge, it has been considered desirable, through compulsory government insurance, to see to it that old-age needs were at least partially cared for.

Loss of Breadwinner

Closely allied with the problem of old age is that of the family which loses its principal breadwinner. Advances in medical science which have strengthened life expectancy have been made primarily by successful attack on causes of death before the age of 40. Maladies such as cancer, heart disease, and arthritis, which strike persons at the peak of their earning power, have increased the number of their victims since 1900. In addition, accident hazards resulting from such conveniences as the automobile have greatly increased also. Few heads of families are able to carry sufficient private life insurance to do more than tide over their survivors for a relatively short period. The problem of taking care of survivors is essentially a public one.

The extent of the problem created by the loss of the breadwinner is

⁶ Social Security Administration, Research and Statistics Note No. 15, May 10, 1957.

demonstrated by these data. In March, 1956, there were 7.7 million widows, of whom 4.3 million were over age 65. About 700,000 younger widows had one or more children under age 18 dependent upon them for support.⁷ More than half the widows under 65 worked, but less than 10 per cent of the widows over 65 were employed. Even young, able-bodied widows who have dependents are handicapped in their search for work because of the difficulty of caring for children and trying to earn a living at the same time.

THE OLD AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM (OASDI)

As the basic method of coping with loss of earning power because of old age or death of breadwinner, the old age and survivors insurance sections of the Social Security Act of 1935, as amended, provided as of January 1, 1958, for the types of retirement, survivor, and disability benefits shown in Table 32.

TABLE 32

TYPES OF OLD AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

- A. Retirement Benefits
 - Primary monthly benefit to retired worker (women 62 or older, men 65 or older)
 - Monthly benefit to his wife if 62 or older
 - Monthly benefit to his dependent child under 18 or disabled
 - Monthly benefit to wife, whatever age, if caring for child
 - Monthly benefit to dependent husband or retired working wife
- B. Survivor's Benefits
 - Monthly benefit to widow, 62 or older
 - Monthly benefit to widow or divorced wife, whatever age if caring for dependent child
 - Monthly benefit to child under 18 or disabled
 - Monthly benefit to dependent widower 65 or older
 - Monthly benefit to dependent parent (mother 62 or father 65)
 - Burial benefit in lump sum to widow or widower or to person who paid burial expenses
- C. Disability benefits
 - Monthly benefit to worker at age 50 if totally disabled for work

SOURCE: Social Security Administration.

Benefits

All benefits are based upon the monthly payment to the retired worker. In accordance with the law as of January 1, 1958, there are two methods of figuring this primary insurance. The older method uses the

⁷ Data from U.S. Bureau of Census, "Marital Status and Family Status: March, 1956," *Current Population Reports*, Series P-20, No. 72 (Washington, D.C., 1956).

average monthly wage beginning with 1937; the newer method uses the average monthly wage beginning with 1951. (Earnings from self-employment covered by the law after 1950 are included in figuring "average monthly wages.")

Most people's average earnings have been higher since 1950 than since 1937. For this reason, payments based on average earnings beginning with 1951 are usually higher than those using wages beginning with 1937. The average monthly wage beginning with January 1, 1951, can be used in any case if the insured person has six quarters of coverage after 1950.

The average monthly wage can be figured beginning with either 1937 or 1951, whichever will give the higher payment, if the insured person reached age 22 before 1951 and has six quarters of coverage after 1950.

The benefit amounts must be figured by the newer method if the insured person reaches age 22 after 1950 and has six quarters of coverage after 1950; they must be figured by the older method if the insured person does not have six quarters of coverage after 1950.

For most people the best method is the one under which the worker's retirement benefit at 65 is 55 per cent of the first \$110 of his average monthly earnings since 1950, plus 20 per cent of the next \$240. Table 33 gives examples of benefits payable to you as the covered worker and your family in accordance with the law in effect on January 1, 1958.

The minimum monthly payment to a retired worker is \$30; the maximum, \$108.50. Total monthly family benefits cannot exceed \$200, or 80 per cent of average monthly wage, whichever is smaller. The 80 per cent maximum, however, may not reduce benefits below \$50 or 150 per cent of the retired worker's benefit, whichever is larger. The minimum monthly survivor family benefit is \$30.

The average monthly benefit received by retired workers in June, 1957, was \$64, and the total amount paid out in OASDI monthly benefits totaled \$555 million. This amount was divided among 10.3 million beneficiaries, of whom 8.6 million were older persons (62 and over) and 1.7 million were young survivors and dependents.

Financing

The OASDI program is paid for by contributions from both employer and employee in covered employment. Self-employed persons covered by the program pay three quarters as much as the total of employer and employee contributions on the same amount of earnings. Initially, the OASDI tax was 1 per cent on the first \$3,000 of earnings in

TABLE 33

RETIREMENT AND DISABILITY INSURANCE PAYMENTS

AVERAGE MONTHLY EARNINGS AFTER 1950*	RETIREMENT BENEFIT STARTING AT AGE 65 OR LATER, OR DISABILITY BENEFIT STARTING AT AGE 50—MAN OR WOMAN	RETIREMENT BENEFIT FOR WOMAN WORKER, STARTING AT AGE		RETIREMENT BENEFIT FOR COUPLE—MAN 65 OR OVER, WIFE'S BENEFIT STARTING AT AGE—			
		62	63	64	62	63	64
		\$	\$	\$	\$	\$	\$
\$ 50.....	\$ 30.00	\$24.00	\$26.00	\$ 28.00	\$ 41.30	\$ 42.50	\$ 43.80
100.....	55.00	44.00	47.70	51.40	75.70	78.00	80.30
150.....	68.50	54.80	59.40	64.00	94.30	97.10	100.00
200.....	78.50	62.80	68.10	73.30	108.00	111.30	114.60
250.....	88.50	70.80	76.70	82.60	121.80	125.50	129.20
300.....	98.50	78.80	85.40	92.00	135.50	139.60	143.70
350.....	108.50	86.80	94.10	101.30	149.30	153.80	158.30

*In figuring your average monthly earnings after 1950 you may omit

- As many as 5 years in which you had low earnings or no earnings.
- Any period in which your earnings record was frozen because you were disabled.

SURVIVORS INSURANCE PAYMENTS

Average Monthly Earnings after 1950*	Widow, Widower, Child, or Parent	Widow and One Child	Widow and Two Children	Lump-Sum Death Payment
\$ 50.....	\$ 30.00	\$ 45.00	\$ 50.20	\$ 90.00
100.....	41.30	82.60	82.60	165.00
150.....	51.40	102.80	120.00	205.50
200.....	58.90	117.80	157.10	235.50
250.....	66.40	132.80	177.20	255.00
300.....	73.90	147.80	197.10	255.00
350.....	81.40	162.80	200.00	255.00

The monthly payments to you—

Is this part of your monthly amount:¹

Wife². One half.

Child (when you have retired) One half.

Dependent husband One half.

Widow Three fourths.

Each child (after your death) One half (plus an additional one fourth divided equally among all your children).

Dependent widower Three fourths.

Dependent parent Three fourths.

¹Except where dependents' or survivors' benefits must be reduced to keep the total family payment within the maximum provided in the law.

²This is the proportion payable at age 65; reduced payments may begin at age 62.

SOURCE: Social Security Administration.

TABLE 34

PAST AND FUTURE OASDI TAXES

YEAR	OASDI TAX RATE		MAXIMUM TAX BASE	MAXIMUM EMPLOYEE CONTRIBUTION†
	Employee*	Self- Employed		
<i>Actual:</i>				
1937-49	1 %	..	\$3,000	\$ 30.00
1950	1½	..	3,000	45.00
1951-53	1½	2¼ %	3,600	54.00
1954	2	3	3,600	72.00
1955-56	2	3	4,200	84.00
<i>Scheduled:</i>				
1957-59	2¼	3¾	4,200	94.50
1960-64	2¾	4½	4,200	115 50
1965-69	3¼	4¾	4,200	136.50
1970-74	3¾	5%	4,200	157.50
1975 and after	4¾	6¾	4,200	178.50

*The employer tax rate is the same.

†The maximum employer contribution is the same; the maximum contribution per covered self-employed person is 50 per cent higher reflecting the higher tax rate applicable to the self-employed.

SOURCE: Compiled by National Industrial Conference Board from official data.

covered employment. The changes since in both the base and the rates are shown in Table 34.

The OASDI taxes are collected by the payroll deduction method for the employed, and with income taxes for the self-employed, under the administration of the Bureau of Internal Revenue. All but the ¼ per cent of the employee and employer tax and the ⅜ per cent of the self-employed tax which were added in 1957 are deposited in the OASI Trust Fund of the United States Treasury. These amounts go into a Separate Disability Insurance Trust Fund. All expenses and benefits of the program now come from these tax receipts. The reserve portions of the Trust Funds—that is, those portions not required for current disbursement—are invested in interest-bearing United States government securities.

As of June, 1957, reserves in the OASI Trust Fund amounted to \$23 billion, and the Disability Trust Fund had assets of \$337 million. The Chief Actuary of the Social Security Administration predicts that the OASI fund will grow steadily until reaching a maximum of about \$120 billion in about 60 years and then decrease, and that the disability fund will build up slowly to a figure of \$6 billion in 1975.

Administration

The OASDI is a wholly federal government-administered program with the single exception that initial determinations of disability are made by state agencies. Two departments share these administrative

functions, the Treasury and the Department of Health, Education, and Welfare. The Bureau of Internal Revenue of the Treasury collects the taxes, and the Secretary of the Treasury is the managing trustee of the Trust Funds. The Treasury also issues benefit checks and makes appropriations from the Fund to cover administrative expenses.

All other administrative functions are handled by the Bureau of Old Age and Survivors Insurance of the Social Security Administration, which is now a division of the Department of Health, Education, and Welfare. Centralized records are kept in Baltimore, Maryland, and field offices are located throughout the United States. In addition, research and actuarial divisions are attached to the Social Security Administration in Washington. The determinations of disability which are (generally the vocational rehabilitation unit) subject to review by the Social Security Administration. An appeals council, which hears cases involving claimants who are dissatisfied with interpretations of eligibility or amount of benefits due, is also attached to the Social Security Administration in Washington.

Eligibility

Eligibility for benefits is based upon the extent and the time which a person spends in employment under the jurisdiction of OASDI. The yardstick for measuring whether one is insured under OASDI is the "quarter of coverage"—a 3-month period beginning January 1, April 1, July 1, or October 1 in which one was paid \$50 in wages or earned \$100 or more in self-employment income, provided such earnings or income were in occupations or industries covered by OASDI.

One is fully insured when he reaches retirement age (62 for women, 65 for men) or dies if at that time he has one-quarter coverage (earned any time after 1936) for each two calendar quarters that have elapsed since December 31, 1950. At least six quarters of coverage are necessary in any case; forty quarters of coverage entitles one to fully insured status for life. One is currently insured at any time if he has at least six quarters of coverage within the preceding 3 years. In counting the number of calendar quarters that have elapsed since 1950, the following should be omitted: any quarters before age 21; any quarters in which the earnings record was frozen owing to disability. Table 35 shows how many quarters of coverage are needed for a person to be fully insured at retirement age.

Self-employment earnings must be at least \$400 per year to count toward quarters of coverage or benefit payments. If such earnings are at least \$400, each quarter of the year is a quarter of coverage.

TABLE 35

ELIGIBILITY REQUIREMENTS FOR FULLY INSURED STATUS, OASDI

YEAR AT WHICH RETIREMENT AGE IS ATTAINED*	MINIMUM NUMBER ELIGIBILITY QUARTERS IN COVERED EMPLOYMENT		YEAR AT WHICH RETIREMENT AGE IS ATTAINED*	MINIMUM NUMBER ELIGIBILITY QUARTERS IN COVERED EMPLOYMENT	
	January-June	July-December		January-June	July-December
1953 or earlier.....	6	6	1962.....	22	23
1954.....	6	7	1963.....	24	25
1955.....	8	9	1964.....	26	27
1956.....	10	11	1965.....	28	29
1957.....	12	13	1966.....	30	31
1958.....	14	15	1967.....	32	33
1959.....	16	17	1968.....	34	35
1960.....	18	19	1969.....	36	37
1961.....	20	21	1970.....	38	39
			1971 or later	40	40

*Those who do not have enough quarters when retirement age is attained may earn them by working in covered employment after that age is attained.

SOURCE: Social Security Administration.

To be eligible for retirement benefits for himself and his dependents, and for his surviving aged widow and parents to be eligible for survivor benefits, the worker must be fully insured. (For dependent husband and widower's benefits, the working wife must be *both* fully and currently insured.) Currently insured status provides benefit eligibility for surviving children, widows with children, and lump-sum payments. Payment of the new disability benefits are contingent on fully insured status, currently insured status, *and* social security credit for 5 years of work in the 10 years before the beginning date of the disability.

The Retirement Test

A retired worker, dependent, or survivor who does not earn more than \$1,200 in a year can get benefit checks for all 12 months of the year. But such beneficiaries earning more than \$1,200 in a year before reaching age 72 will receive benefit checks for fewer than the full 12 months. The number of monthly benefit checks received will depend on the amount of total earnings and on how many months were worked. Generally speaking, one month's benefit check is lost for each \$80 (or fraction of \$80) of earnings over \$1,200. However, no matter how much is earned in a year, benefits are not withheld for a month in which the individual has wages of \$80 or less and does not render substantial self-employment services. This so-called "retirement test" is not applicable at all after the individual reaches age 72.

Coverage of OASDI

Of every one hundred persons in the United States who worked in civilian jobs in March, 1957, eighty-three were earning credits toward retirement benefits under old-age, survivors, and disability insurance, two had joint railroad retirement-OASDI coverage, three were protected by federal civil service and special systems, and five were covered by state and local government retirement programs. Only seven out of one hundred civilian employees remained without coverage under a public retirement system, as Table 36 indicates.

While all but a very small proportion of persons now working will qualify for a government pension upon retirement, the picture is not so bright for persons currently 65 years or older owing to the relative newness of most pension programs, and to the fact that not until recently has OASDI offered such comprehensive coverage. When monthly OASDI benefits were first payable in 1940, our population contained 9 million aged persons, a majority of whom were retired and unable to meet the eligibility requirements. Large areas of employment were excluded from participation: all of agriculture, domestic service, and nonfarm self-employment. In fact, of the 85 per cent of civilian jobs covered by OASDI or railroad retirement in March, 1957, only 62 per cent had been brought under the programs prior to World War II. Coverage was extended to the additional 23 per cent by amendments passed in 1950, 1954, and 1956. Figure 40 shows how these extensions affected the growth in the total number of beneficiaries.

These facts explain why at the end of World War II only about one fifth of *retired* aged persons was in receipt of a government pension. By the end of 1950 the proportion had gone up to almost two fifths, and at the end of 1956 it came to two thirds. Still, 3.5 million of the 10.7 million aged persons without income from employment in December, 1956, did not qualify for a government pension. It is for these excluded persons that the old-age assistance program plays an important part.

OLD-AGE ASSISTANCE

That OASDI could not cover all persons was recognized at the inception of the Social Security Program. Those already past age 65 were treated as business firms treat those who have left their employ when the business adopts a pension program—they were left out. But the writers of the Social Security Act recognized that some of the excluded oldsters did not have the resources to get along without public assistance,

TABLE 36

PAID CIVILIAN WORKERS COVERED BY A PUBLIC RETIREMENT PROGRAM, MARCH, 1957

Coverage Status	Millions	Per Cent
<i>Paid civilian employment</i>	63 2	100
<i>Covered by a public program</i>	59 0	93
OASDI and railroad retirement*	54.0	85
OASDI coverage under 1939 amendments	39 5	62
Added by 1950 and 1954 amendments	13.3	21
Joint railroad retirement-OASDI coverage	1.2	2
Government employee retirement†	5.0	8
<i>Not covered by a public program</i>	4.2	7
Agriculture	1.3	2
Domestic service	0.9	1
Other††	2.0	3

*Includes employees of state and local governments and nonprofit organizations and ministers who were actually covered under the program, it does not include persons eligible for coverage who were not covered in this month.

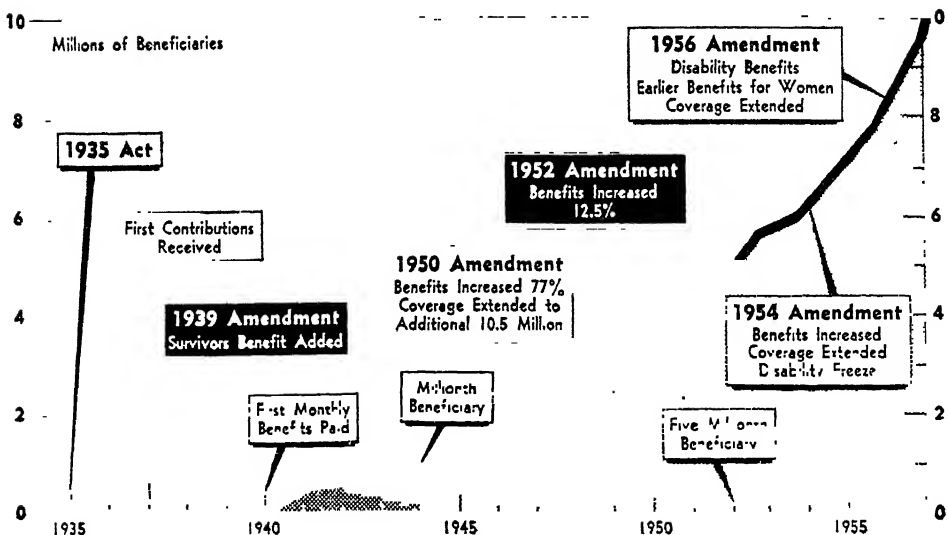
†Excludes one million employees covered by both OASDI and state and local government retirement programs.

††Includes noncovered workers in the following partially covered industries: educational institutions and agencies, medical and health services; religious, charitable, and membership organizations, forestry and fishing. Also includes doctors, and other nonfarm self-employed persons not yet covered in March, 1957.

SOURCE: Social Security Administration.

FIGURE 40

GROWTH OF SOCIAL SECURITY BENEFICIARIES 1940-57



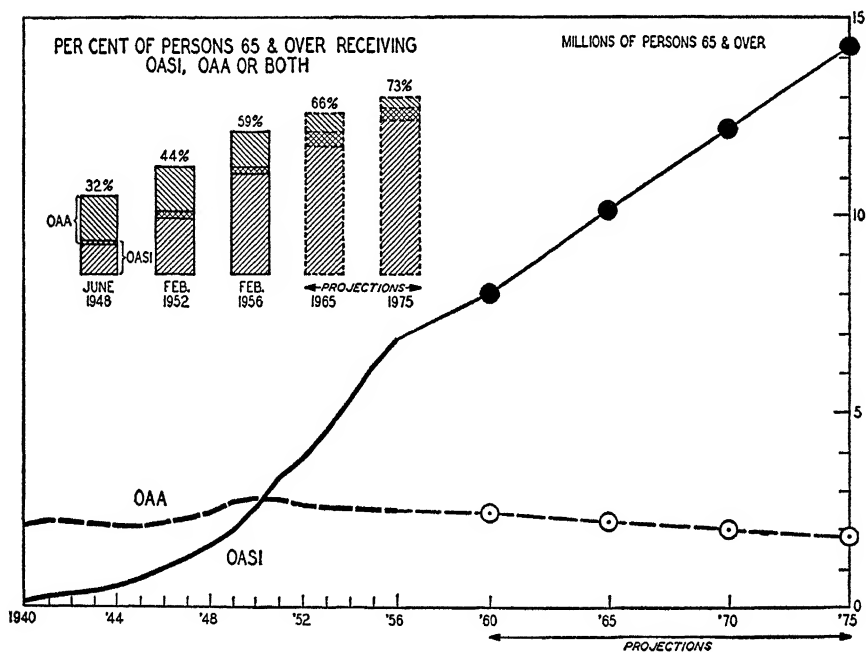
SOURCE: *New York Times*.

and they also realized that for some persons receiving relatively low insurance benefits, supplementation would be necessary. So they provided a system of grants-in-aid to the states for payments to the *needy* aged. Old-age assistance (OAA) is one of the three categorical relief programs provided by the Social Security Act. The other two were aid to dependent children (ADC) and aid to the blind (AB). A fourth category—aid to the permanently and totally disabled (APTD)—was added in 1950.

Old-age assistance was actually received by more persons than OASDI until the 1950 amendments broadened the coverage of the OASDI program. (See Fig. 41.) Moreover, OAA payments have, on average, been kept better adjusted to the cost-of-living increases than have OASDI payments. (See Fig. 42.) There is, however, considerable variation state by state in OAA payments. In June, 1957, for example, the highest average OAA payment was Washington's \$94.15 per month; the lowest, Mississippi's \$28.67 per month.⁸ The reason for the variation

FIGURE 41

MORE AND MORE OLDER PERSONS WILL RECEIVE OASDI BENEFITS



OAA. The cross-hatched sections in bars indicate proportions of older persons receiving both OASI and OAA.

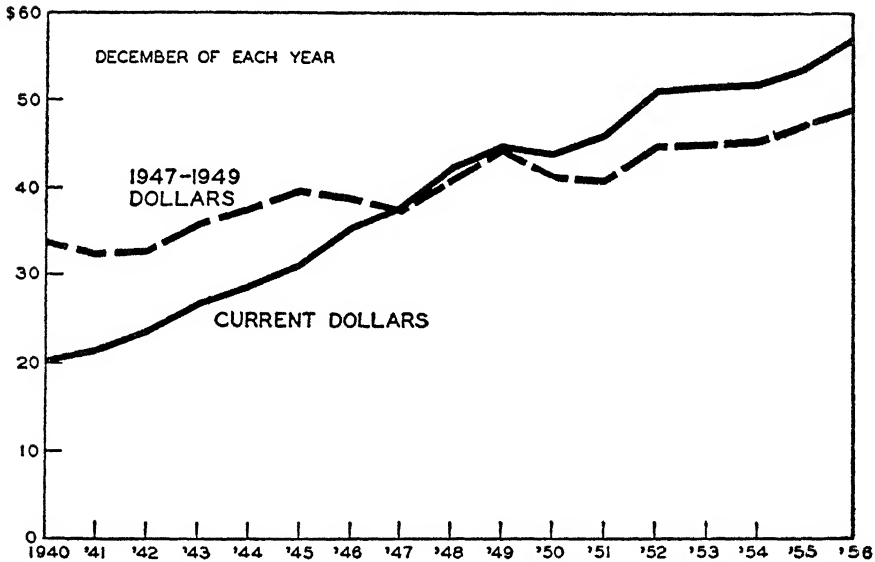
SOURCES: Social Security Administration; National Industrial Conference Board, Inc.

⁸ Data from Social Security Administration.

is that, although the federal government foots a good portion of the bill, OAA, unlike OASDI, is mainly a state-administered program.

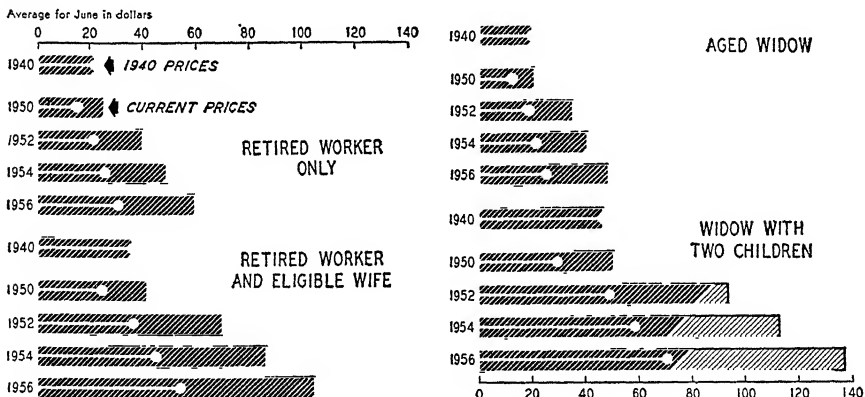
The federal government in 1953 provided up to \$39 per month for OAA (four fifths of the first \$30 and one half of the remainder up to \$60) to the states.

FIGURE 42
AVERAGE MONTHLY OLD-AGE ASSISTANCE PAYMENT



SOURCES: Social Security Administration; Bureau of Labor Statistics; National Industrial Conference Board, Inc.

OASDI FAMILY BENEFITS



SOURCES: Social Security Administration; Bureau of Labor Statistics, National Industrial Conference Board, Inc.

Table 37 traces the changes in the matching formula since 1935. The amendments in 1956 provided that, in addition to and separate from the matching of cash payments shown in this table, the federal government will share on a fifty-fifty basis state expenditures to doctors, clinics, hospitals, and other "vendors" of medical care on behalf of public assistance recipients. The maximum of such vendor payments in which the federal government will participate under old-age assistance is determined by multiplying \$6 per month times the number of OAA receipts.

TABLE 37
CHANGES IN THE MATCHING FORMULA FOR OLD-AGE ASSISTANCE

LAW	FEDERAL MATCHING PROPORTION	MAXIMUM MATCHABLE INDIVIDUAL PAYMENT		
		Total	Federal Share	State Share
1935..	One half of individual payment...	\$30	\$15	\$15
1939.....	One half of individual payment....	40	20	20
1946.....	Two thirds of first \$15 of average matchable payment plus one half of remainder.	45	25	20
1948.....	Three fourths of first \$20 of average matchable payment plus one half of remainder.	50	30	20
1952.....	Four fifths of first \$25 of average matchable payment plus one half of remainder.	55	35	20
1956.....	Four fifths of first \$30 of average matchable payment plus one half of remainder.	60	39	21

The 1956 amendments provide in addition that the federal government match on a fifty-fifty basis state expenditures for payments to suppliers of medical care on behalf of old-age assistance recipients, up to an average expenditure of \$6 per month times the number of persons on the OAA rolls.

SOURCE: Social Security Administration.

The Social Security Act makes these grants-in-aid for old-age assistance contingent on an age requirement no higher than 65 years, a residence requirement which does not exclude persons who have resided in the state for 5 of the 9 years immediately preceding application and for 1 year continuously immediately preceding application; and a citizenship requirement which does not exclude any citizen of the United States. State laws in existence prior to 1935 frequently contained more exacting eligibility requirements, particularly as to residence.

Federal aid is limited to needy persons, but the states are permitted wide latitude in defining need, subject only to the requirement (effective July 1, 1941) that any income or resources of the applicant must be taken into consideration and (effective August, 1943) to an annual review of

the recipient's eligibility for assistance. Such review, however, varies from a thorough one in some states to a perfunctory one in others.

The proportion of aged persons on the old-age assistance roll varies widely across the country: from fewer than one out of ten in twelve jurisdictions to more than one out of three in eight. For the United States as a whole, 173 out of 1,000 persons 65 or over were receiving OAA in December, 1956.

These tremendous differences in OAA recipient rates reflect economic factors to some extent, but legislative, administrative, philosophical, sociological, and political factors appear to have even more influence. One student of the subject concluded that two discretionary legislative provisions seem to exert the greatest control over the number of persons receiving old-age assistance payments. One is the requirement that children and other close relatives contribute to the support of their aged parents, spouse, etc. The other is the provision that the state may recover the total amount of assistance paid from the estate of the deceased recipient.⁹

CURRENT OASDI ISSUES

Most students of social security favor, in principle, the widest possible coverage of an insurance program and the narrowest possible coverage of an aid program. This preference is based upon both social and economic grounds. The social reasons are grounded in the democratic belief that older persons have a right to spend their final years in dignity with the income based upon right rather than an income secured on the basis of demonstrated need. Under an insurance system, the worker and his employer, or the self-employed person, contribute during his working life a given amount of earnings which is then used to finance an income after retirement. By complying with the published rules of the insurance system, the retirement income is earned. Need is not a factor.

In contrast, assistance is based upon need, which means that need has to be defined. Even with the best of intentions, different administrators will define need differently. In other instances, favoritism or political pressure may determine who receives assistance and who does not. In California and Washington, recognized pressure groups with large memberships now lobby for bigger and better old-age assistance. In Louisiana, a change in administrations brought with it a twofold in-

⁹ Miriam Civic, "Income and Resources of Older People," *Studies in Business Economics* No. 52 (New York: National Industrial Conference Board, Inc., December, 1956), pp. 67-79.

crease in the number of old-age assistance recipients. The aged are a significant group worth pleasing to the ambitious politician, sometimes without proper consideration for the general welfare. Under such circumstances, need can be redefined in terms of political regularity with consequent degradation of the older person in real need.

The economic grounds for preferring an insurance program to an assistance program are closely related to the social ones. Insurance is paid for by the beneficiaries or their employers under a system of taxation that is clearly earmarked for a specific purpose. Assistance comes out of general taxation which permits liberality without tying costs to benefits, or costs to responsibilities. In the long run, assistance is likely to be found to be less efficient and more expensive, with those employed burdened with the care of an increasing older population that has not provided for its own retirement by insurance.

Too Much OAA?

Under present arrangements, OAA will continue to provide income for needy older persons who cannot qualify for OASDI benefits, but this group may be expected to become tiny in the future. More and more, OAA will play a supplementary role to OASDI, providing additional income for the small proportion of insured oldsters who cannot make ends meet on their benefits and personal resources. (See official projections in Fig. 41, p. 574.)

This will be true, however, only if the purchasing power of benefits remains relatively stable. Should prices rise sharply and OASDI benefits not keep pace with them, many more aged persons may find it necessary to supplement benefits with OAA payments.

Reduction in the amount of dependency among the aged, moreover, may not be translated into smaller relief rolls and lower assistance payments if we are not alert to distortions that have already cropped up in the popular concept of the purpose of old-age assistance. There is widespread confusion in the public mind between the assistance and insurance programs for the aged. It is too often not clearly understood that OAA payments are intended only for the "needy" who do not have sufficient means to get along decently without such aid. Testimony before the Curtis subcommittee in 1953 revealed that many people had come to believe that they were entitled to old-age assistance as a matter of right, regardless of need, on reaching age 65;¹⁰ so did an intensive review of

¹⁰ "Social Security after 18 Years," A Staff Report to Hon. Carl T. Curtis, chairman, Subcommittee on Social Security, for the Committee on Ways and Means, House of Representatives, 83rd Cong., 2d Sess., 1954, pp. 9-10.

the subject conducted in 1951–53 by an academic research team in California.¹¹

Public Pension Protection for All

Problems of omission, co-ordination, and duplication remain among public retirement systems, although the 1950–56 legislation went a long way toward eliminating them. Logically, the various government systems should combine to guarantee *all* persons who have worked in their productive years a basic monthly pension when they are too old to work. In the past, the gaps in coverage of OASDI and nontransferability of wage credits among the individual systems, however, have prevented attainment of this ideal. The extension of OASDI to most nongovernmental employment and self-employment, the joint protection provided by OASDI and railroad retirement, and the procedure for bringing state and local government employees into the OASDI system are all steps in the direction of correcting these shortcomings. But it remains to be seen how many states will avail themselves of the opportunity to come under OASDI. And still to be achieved is some integration of civil service and other federal retirement systems with OASDI—at least to the extent of preventing loss of protection for people moving between private and public employment.

Perhaps of more concern to future generations are the double benefit rights which have been earned by veterans and their families under OASDI and the veterans' programs. Nonservice-connected pensions were provided before this country embarked on a general program of income insurance for retirement. In a way, they can be viewed as a pioneer social security program for the segment of the population distinguished by having served in the Armed Forces.

The argument for continuing to provide such benefits loses its force, however, when citizens generally have OASDI protection. Besides, veterans no longer account for a small proportion of the population that we can afford to treat with extra generosity. In 1940, veterans and their families represented only 11 per cent of the whole population. By 1956, they numbered an estimated 75 million and constituted 45 per cent of the total population—49 per cent if those still in the Armed Forces and their families are included.

Adopting as a guiding principle the attitude that military service in time of war or peace should be regarded as an obligation of citizenship and should not be considered inherently a basis for future benefits, a

¹¹ "Our Needy Aged: A California Study of a National Problem," by six members of the faculty of Pomona College (New York: Henry Holt & Co., Inc., 1954), p. 342.

Presidential Commission headed by General Omar Bradley recently indicated:¹²

Our society has developed more equitable means of meeting most of the same needs and big strides are being made in closing remaining gaps. The nonservice connected benefits should be limited to a minimum level and retained only as a reserve line of honorable protection for veterans whose means are shown to be inadequate and who fail to qualify for basic protection under the general old-age and survivors insurance system.

Pay As You Go versus Reserve Financing

In discussing how the insurance program is financed it is necessary to separate old age and survivors benefits from the new disability benefits. When the latter were adopted in 1956, a special trust fund was set up as an answer to the argument that disability benefit costs might bankrupt the OASI system. As has already been pointed out, an additional $\frac{1}{2}$ per cent was added to the combined employer-employee rate (and $\frac{3}{8}$ per cent to the self-employed rate) in all future years to finance the disability benefits. Increases in the OASDI tax schedule are all attributable to increased contributions to the OASI Trust Fund.

The present method of financing old age and survivor benefits is actually a practical compromise between two extremes: pay as you go and level premium. The latter would require an uniform contribution rate at all times, much higher to meet current outlays in earlier years and lower than necessary for the same purposes in later years. Because of the enormous reserve fund which level-premium financing would require building up, it has not been adopted. Rather, the plan has been to set taxes on a modestly increasing basis which will divide costs over the years and build up a large but not enormous (for the job to be done) reserve. The Fund can then absorb short-term fluctuations in benefits and assume some past service credits. Figure 43 compares how reserves build up under the original and the present plans.

Proponents of the pay-as-you-go method argue that we are actually paying as we go now, since when current contributions are exceeded by costs, we shall have to convert the government securities in the Trust Fund into cash by taxation or borrowing. Hence they believe that it would be better to meet benefit costs as they arise.

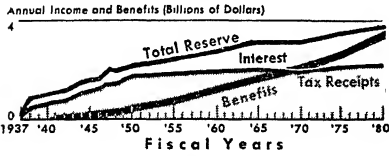
There are several objections to this viewpoint. One very practical one is that it jumps costs too high at a later date after keeping them low

¹² "Veterans' Benefits in the United States, Findings and Recommendations," A Report to the President by the President's Commission on Veterans' Pensions, April, 1956, p. 138.

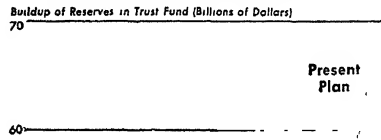
FIGURE 43

SOCIAL SECURITY PENSIONS

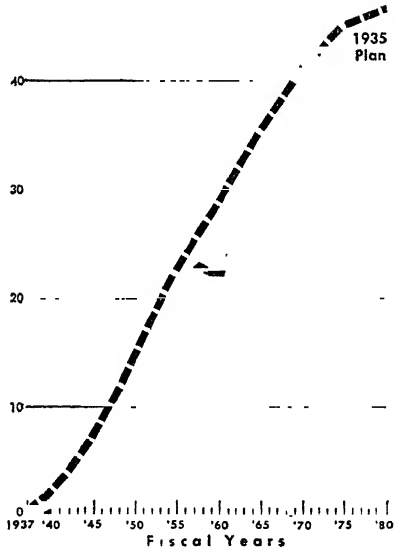
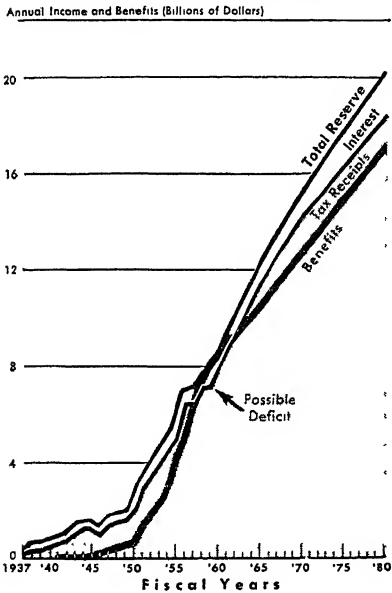
1 As planned in 1935, benefits would total only \$3.5-billion in 1980...



3 ... But until 1970 the total in reserve funds will be practically the same



2 ... under today's forecasts, benefits will reach \$17-billion in 1980...



DATA: 74th Cong., 1st Sess., Senate Report 268; Treasury Department.
SOURCE: Reproduced from *Business Week*, by permission.

initially, so that employees and employers become conditioned to a large benefit for a low cost and resist future increases which must become effective if pay as you go is not to be dropped in favor of meeting costs either from general taxation or by deficit financing. Another objection along these same lines is that short-term fluctuations in benefits can occur and thus cause erratic and uncertain tax changes if strict pay-as-you-go financing is to be maintained.

Another objection to the pay-as-you-go method of financing is that it foregoes the right to earn interest, which materially reduces the cost of pensions under the trust-fund method of financing. The interest earned by the Trust Fund is not only a saving for the insurance system but for all

taxpayers as well, since bonds now "sold" to the Trust Fund would, at least whenever the federal budget shows a deficit, otherwise be sold to banks or other institutions or individuals, and then the interest would be a cost to the taxpayers, without a return to the general pension system.

The contention that we are already on a "pay-as-you-go" plan, since the reserve in the Trust Fund is invested in government securities, is open to serious question. The securities purchased for the Trust Fund are not created for that purpose. If they were not sold to the Trust Fund, they would be sold elsewhere to permit the government to borrow the funds that it needs. So long as there are government bonds or securities outstanding, it makes no difference whether they are in the hands of private banks or public trust funds insofar as costs are concerned. It therefore follows that we are *not* now on a pay-as-you-go plan because government taxation or borrowing to redeem securities in the Trust Fund pays the cost of the services or projects for which the bonds were issued, not the costs of old age and survivor benefits. It is no more an unusual procedure for the OASI Trust Fund to invest in government securities than for a private insurance company's reserve fund to do the same with its current surpluses.

"Pay as you go" is based upon a very dangerous assumption, for it assumes that future generations and Congresses will be willing to levy special taxes at a much higher rate than present ones. The cost of retirement is both a present one and a future one. By levying all the cost of those retired at the time of retirement, pay-as-you-go adherents would have us, in effect, live off our depreciation. What we would be doing would be analogous to the factory owner who takes no heed of machine depreciation until the machine wears out. Then he must charge the cost of a new machine against the profits of a single year, instead of spreading the cost over many years. Proper provision for the aged requires that the costs of retirement be divided between the future and the present. "Pay-as-you-go" proponents would, it appears, delay too much of the costs for the future and thereby risk that either the costs would not be met and the benefits denied or that benefits be given only to those who are determined to be needy, in spite of the evils of the assistance system and the fact the OASDI benefits are earned, not given as charity. The Republican Eisenhower administration, like the Democratic administration of F. D. Roosevelt and Truman, has wisely rejected "pay as you go."

Compulsory Retirement

The cost of a retirement program now and in the future is going to depend considerably on how many persons past 65 continue to work.

The more that do work, the less will be the cost. As of June, 1957, about two fifths of the men past 65 years of age were in the labor force. If people generally were to retire and take benefits at 65, the long-range costs of OASDI would materially increase. By the same token, if limits on receiving income were removed as a condition of receiving OASDI payments, costs would also materially increase.

Because many persons over 65 prefer work to retirement, forced retirement increases the cost of an adequate retirement program. To combat the trend to compulsory retirement, Professor Sumner Slichter has proposed a small OASDI tax rebate to the employer who keeps older workers on the job. The employer and the community would benefit, while the worker involved would be happier since only those over 65 who wanted to work would participate in the plan. A contribution which will buy a pension at age 65 will buy a one-third larger pension at age 68 and a one-half larger pension at age 70. That is because fewer people would receive the benefits at the higher ages, and pensioners who retire at the more advanced ages would live fewer years supported by pensions.

If this proposal is adopted, it should also include provisions for unlimited earnings after age 70. At present, a person can earn an unlimited amount after age 72 and still receive his pension. It would seem reasonable that if this were changed to age 70, more people might wait until then to retire; but 72 may be too long after 65 to be worth waiting for. In this connection, there is now much agitation to liberalize the \$1,200 limit on earnings in covered employment between ages 65 and 72. Care must, however, be taken to prevent retirement from being too financially worth while and thus upping too high the cost of retirement by inducing those to retire who at 65 might otherwise be inclined to stay in the labor force.

Insurance Benefits for the Permanently and Totally Disabled

Failure to provide insurance benefits for workers disabled before reaching retirement age was long the most serious omission of our social security program. The first step taken to correct this omission was the disability freeze provision of the 1954 amendments which may be likened to the waiver of premium under life insurance. The second step was the provision of benefits to permanently and totally disabled workers at age 50 and to children over 18 if their disability began prior to that age. But these are only a beginning, and it is likely that there will be considerable pressure to liberalize this section of our social security program in the years ahead. Two of the questions that may be raised at this point are:

1. What is the justification for permitting benefits only after age 50? Would not a younger disabled worker be just as seriously in need?
2. Why limit disability benefits to payments to the worker himself but extend retirement benefits to the wife and children of the worker? Certainly the family of a disabled worker should get the same consideration.

Issues for the Future

By the end of May, 1957, nearly 300 bills relating to social security had been introduced in the 85th Congress but little was done about them. Congressional action appears to wait for the even years—the election years—since social security has become a popular political issue. Nevertheless, the bills introduced provide a clue as to what may emerge as social security issues in the future. Extension of OASDI coverage was provided in fifty-three bills, reduction of the retirement age in twenty-nine, increase of benefit amounts in thirteen, and liberalization of disability benefits in eleven. Twelve bills would eliminate the retirement test, while twenty-seven would liberalize it in various ways. New types of benefits—such as hospitalization benefits for beneficiaries—would be added by nine bills. Some seventy bills would liberalize or otherwise amend public-assistance legislation. This is not a complete listing, but it suggests that 1958, like 1950, 1952, 1954, and 1956, will witness expansion of our present social security program.

INDUSTRIAL PENSIONS

The Social Security Act was passed in 1935 at a time of depression and low living costs. The primary retirement (OASI) benefit was set at \$24.97, plus another \$13.21 for the wife. Twelve years later, in spite of war prosperity and inflated living costs, these benefits remained the same. Many forward-looking industrialists urged liberalization of OASI, but, in general, industry, if it did not oppose such action, certainly did not support it.

In 1950, however, when the OASI benefits were liberalized, industry gave such liberalization its blessing. In the meantime, labor leaders had run away with the ball. Their answer to the failure of OASI to keep pace with living costs was the bargained pension.

Development of the Bargained Pension

Bargained pensions are a post-World War II development. Long before then, however, private pension plans were developed by unions

and companies, separately, and outside the scope of collective bargaining.

Pension plans operated and financed by unions were inaugurated mostly prior to World War I. They had a high mortality rate, and few survived. Company pension plans blossomed in the 1920's as part of industry's joint attempt to develop a personnel program and to offset unionism. After a reversal occasioned by the great depression and the inauguration of the Old Age and Survivors Insurance program in 1935, interest in company pension plans was revived by a change in the Internal Revenue Code in 1942. The new revenue regulations permitted employers to deduct costs of pension plans which met certain requirements at a time when profits were high and rising. Company pension plans increased from approximately 600 in 1939 to 9,000 ten years later.

The drive for bargained pensions received its first great impetus in 1946 when John L. Lewis won his health and welfare fund for coal miners. In 1949, Philip Murray won support for bargained pensions from a fact-finding board appointed by President Truman to make recommendations in a dispute between the major steel companies and the Steelworkers Union. After a strike, the steel companies acceded to the pension demand. Soon thereafter, the major automobile companies signed pension agreements, and the movement spread throughout the economy.

The extent of coverage of industrial pension plans is not known precisely, but judging from the estimates for 1940-55 shown in Table 38 it would be safe to place total coverage at the end of 1957 at about 15 million workers.

TABLE 38
ESTIMATED COVERAGE UNDER PRIVATE RETIREMENT PLANS

End of Year	Number of Plans*	Millions of Persons Covered†
1930.....	720	2.4
1935.....	1,090	2.6
1940.....	1,965	3.7
1945.....	7,425	5.6
1950.....	12,330	8.6
Insured.....	11,250	2.7
Self-insured....	1,080	5.9
1955.....	23,000	13.3
Insured... ..	18,980	4.1
Self-insured....	4,020	9.2

* Excludes "pay-as-you-go" plans.

† Includes persons covered under "pay-as-you-go" plans; for 1955, excludes annuitants.

SOURCES: Division of the Actuary, Social Security Administration; Institute of Life Insurance.

Contributory versus Noncontributory Pension Plans

Three fifths of the pension plans for hourly employees in a survey of 327 companies conducted by the National Industrial Conference Board in 1954-55 were financed solely by employer contributions (noncontributory plans).¹³ The remainder were contributory, usually with the employer paying the greater share of the costs. Contributory plans provide for the return of the employee's contribution if he leaves the company, generally with interest.

Those who favor the noncontributory approach point out that the employer's contribution to an employee pension plan is a deductible income tax expense, but the employee's contribution is not. Hence the employer can pay the cost at a smaller net expense than the employee. Moreover, the cost of retirement from this point of view is similar to a depreciation cost on plant and equipment and, like such costs, should be borne by the employer.

Large unions, such as the Mine Workers, Steelworkers, and Automobile Workers have insisted upon noncontributory pensions in nearly all of their contracts. These unions also take the position that workers forego a wage increase when they bargain for pensions and are thus in effect "contributing."

The contributory approach to pension financing is based upon two principles: (1) that it is salutary for those who benefit to participate in the cost so that they understand and appreciate that nothing is free; and (2) that a more liberal pension is possible when both employers and employees contribute. These arguments have not impressed most union leaders.

Funding Pension Plans

Some pension plans are not funded. The employer simply pays the cost of the pension as it is incurred. Pensions are on a pay-as-you-go basis. Such plans have the disadvantage of incurring major costs in one year which should be spread over a number of years. In addition, there is no guarantee that promised pensions can be paid if the business either becomes hard pressed or goes bankrupt. Still another disadvantage is that pay-as-you-go plans do not reap the full tax advantages to the company which the Internal Revenue Code grants to actuarially sound plans.

Despite these disadvantages, many companies have agreed to pen-

¹³ F. Beatrice Brower, "Pension Plans and Their Administration," *Studies in Personnel Policy* No. 149 (New York: National Industrial Conference Board, Inc., 1955).

sion demands of unions without more than pay-as-you-go financing arrangements. Such companies are often small concerns which are either poorly advised or which do not have the financial resources to make sound actuarial provisions for pensions. One may expect such pension agreements to be little more than empty promises if a serious depression occurs. The United Mine Workers' pensions are on a pay-as-you-go basis in both the bituminous and anthracite industries. The bituminous fund once had to suspend payments, and the costs have risen sharply since its inauguration, with the end not in sight. In 1954 the anthracite fund was forced to cut its \$100 pension in half because of lack of cash.

A much sounder way to handle pension financing is by funding—accumulating funds for future payment. Trusteed fund plans are administered by the employer or employer and union, often with the assistance of a bank. An actuary determines the amount of funds to be set aside, basing his estimate on such things as age of the work force, labor turnover, interest rates, etc., and the funds are placed in an irrevocable trust for investment. Should the company go out of business, pension payments are made to the extent that there are funds available, but no trusteed funds may be spent for anything but pensions, no matter what the employer's needs are. The Auto Workers' plans are mostly of this type.

Group annuity plans are funded plans which are underwritten and administered by insurance companies. Premiums are charged by the insurance company which provides for annuities for employees as they retire. Small companies which do not feel capable of setting up trusts often find the insured plan to advantage.

A final type of pension financing is based upon profits. In prosperous years, a portion of profits is set aside to finance pensions. This eases the financial burden—if profits are consistently good. Therein lies the danger. For the heaviest costs of retirement can occur when profits are not good, or before sufficiently profitable years have occurred. Pension costs do not fluctuate, like profits, with the business cycle.

Vesting

If, under certain conditions, an employee retains rights to a pension even if he leaves a company, that pension plan gives "vested rights." (Vesting does not mean merely the return of the employee's contribution; it entails rights to the employer's share, usually in the form of retirement income.) Generally, vested rights accrue only after a certain number of years of service, with additional requirements of age also common.

A significant development in collective bargaining on pensions since

1955 has been the increased adoption of vesting provisions.¹⁴ A vested plan is more expensive than a nonvested plan, and may not be so effective in dissuading experienced employees from quitting a particular company to take another job. But it protects the retirement income of employees who are forced to leave the company because of disability or unfavorable business conditions. Furthermore, vesting allows an employee to leave a company voluntarily without fear of losing his retirement income, thus encouraging labor mobility. Last, but not least, vesting may overcome that part of employer resistance to hiring older workers that is rooted in the higher cost of providing pensions for such workers. The cost need not be higher if the employee brings with him the accrued retirement protection he has built up in his past job or jobs. For all these reasons, some experts contend that private pension plans should provide vesting rights if they are to contribute effectively to economic security in old age.

Area Plans

One way in which some unions are attempting to solve the vesting problem is by means of area plans. Such a plan is in operation in Toledo, Ohio, where the United Automobile Workers' Union has been able to induce a number of firms in effect to pool pension plans into one area plan. Workers can transfer from one plant to another which is a party to the area pension plan without losing their stake in the pension plan. If one plant goes out of business, the others in the plan assume the obligations at least of those remaining in the labor market.

The United Mine Workers' Health and Welfare Fund is similar, but instead of being on an area basis it is on an industry basis with separate funds for the bituminous and anthracite industries. Other such plans exist in various retail trade industries and in the garment trades.

Most companies oppose inclusion in an area or industry plan because of the unknown quantity of the liability which they assume by pooling their funds with other companies and therefore at least partially accepting responsibility for pensions in companies outside of their own. Most of the companies involved are small ones which otherwise might not be able to pay for a pension plan and which do not have the bargaining power to oppose a union demand for an area pension.

Because such funds as the Miners' Health and Welfare Fund are concerned also with hospitalization and medical benefits, we shall discuss them in greater detail in Chapter 21. Suffice it to point out here that, de-

¹⁴ An analysis of vesting since 1925 and a description of the major characteristics of vesting provisions as they exist today are contained in an article, "Vested Pension Benefits," by Harland Fox, which appeared in the *Management Record* (New York: National Industrial Conference Board, October, 1955).

spite the requirement in the Taft-Hartley Act that such funds be jointly administered by unions and employers, they are often union controlled. Recent investigations indicate that the funds are sometimes used for personal gain. The need for government supervision is therefore substantial if large sums of money meant for pensions and medical benefits are not to be squandered.

Compulsory Retirement

While retirement policies among companies with pension plans are quite varied, many companies require retirement at a specified age with few or no exceptions allowed. The National Industrial Conference Board found mandatory retirement in about three fifths of the 327 companies whose retirement practices were studied in 1955, with sixty-five the age most frequently specified.¹⁵ Other companies permit the employee upon reaching normal retirement age to continue working as long as he is reasonably efficient and physically able to perform his duties. Others automatically retire him when he reaches a specified age unless he receives management approval to continue working.

Workers who reach retirement age in good health are frequently loath to retire. Partly this is because of a desire to maintain their present standard of living; partly it reflects a desire to remain with their friends in the work group; and partly it is based on a feeling of loss of usefulness which often goes with retirement. Less than 9 per cent of some 1,700 retired employees who were in the favored position of receiving company pensions said that they had retired to have more time for themselves. Figure 44 lists the other reasons they gave.¹⁶

Unions have taken up the case against compulsory retirement. A Bureau of Labor Statistics analysis in 1952 revealed that the greater the degree of union participation in the administration of pension plans, the less likely were such plans to contain compulsory-retirement provisions. The concept that management has a right to retire workers because of age alone has thus been successfully challenged. The management concept that pensions are a reward for long and faithful service is pitted against the union view that pensions are deferred compensation which the worker has earned and which he may accept when he no longer desires to work.

¹⁵ F. Beatrice Brower, "Retirement of Employees: Policies, Procedures, Practices," *Studies in Personnel Policy*, No. 148 (New York: National Industrial Conference Board, Inc., 1955).

¹⁶ John J. Corson and John W. McConnell, "Economic Needs of Older People" (New York: Twentieth Century Fund, Inc., 1956). Figure 44 is based on a survey conducted by the authors and discussed in their excellent book on pages 40-41 and 73-75.

FIGURE 44

WHY DO PEOPLE 65 AND OVER RETIRE?



SOURCE: Twentieth Century Fund, Inc.

Of course, management and union policy toward compulsory retirement has been influenced by the tight labor market since World War II. In the event of depression and unemployment, management would likely insist on enforcing retirement in order to be able to utilize younger, more efficient workers. With unemployment in its ranks, unions might well urge older workers to retire in order to give younger members an opportunity to work.

Eligibility for and Types of Benefits

Usually a worker becomes eligible for a pension after he has been with the company a sufficiently long period to acquire seniority. Under contributory plans, the worker must, in most cases, choose whether he desires to participate. In some plans, both contributory and noncontributory, participation is not permitted until a specified age or number of years of seniority, or both, are attained. Moreover, some plans have a maximum participation age (anywhere from 40 to 70, but usually above 55) beyond which an employee not previously covered is not eligible to participate in the pension plan.

To be eligible for normal pension benefits, an employee usually has to attain a specified age and have a stipulated amount of service. In addition to normal benefits, a large proportion of plans make provision for early retirements, usually at age 55, at a considerably reduced pension; and a majority of them permit retirement in case of total and permanent disability.

Amounts of Benefits

The pension formula may ignore OASDI benefits entirely. Such plans generally provide either for a payment equivalent to a uniform percentage of income or a flat sum of money for all compensation groups. If the private pension formula takes OASDI benefits into account, integration may be accomplished in one of three ways. First, the plan may provide the desired total amount and deduct from this the full OASDI retirement benefit. A second method allows employees to reap some gain from the increases legislated in the government program by deducting only part of their OASDI benefit from the company pension. And, third, a dovetailing of company benefits with OASDI may be accomplished by use of a graduated percentage formula which results in a larger pension on above-taxable earnings than on taxable earnings.

In an analysis of 124 pension plans, The National Industrial Conference Board found nearly as many different formulas as there were plans.¹⁷ Grouping them into the categories described above, fifty-eight were completely divorced from OASI benefits, eight deducted the full OASI retirement benefit, twelve deducted part of the OASI benefit, forty-two had graduated percentage formulas, and four combined deduction of part of the OASI benefit with a graduated formula. Within each category there was wide variation.

TABLE 39
MONTHLY BENEFITS—FOUR PENSION PLANS

COMPANY	PRIVATE PLAN ALONE	OASDI AND PRIVATE PLAN	
		Single Man	Married Couple*
General Motors.....	\$67.50	\$156.00	\$200.30
U. S. Steel.....	72.00	160.50	204.80
U. S. Rubber.....	54.00	142.50	186.80
Eastman Kodak	75.00	163.50	207.80

*Wife 65 or over.

Table 39 illustrates the benefits payable at the end of 1957 by a few of the larger companies. It assumes that the worker is retiring at age 65 after 30 years of service with average monthly earnings of \$250.

These figures do not necessarily equal benefit amounts currently received by aged persons retired on the pensions of the above companies. The assumption of a constant annual earnings level of \$3,000 for 30 years is not realistic for the typical employee retiring under the plans.

¹⁷ *Studies in Personnel Policy* No. 149, p. 60.

EFFECTS OF BARGAINED PENSIONS

The economic implications of the bargained pension have many ramifications. We shall now explore some of the major problems which either have resulted or may be expected to result from bargained pensions.

Liabilities and Cost Estimates

The first problem which a pension plan poses is how much money can be contributed and what is to be done with the collected funds. Despite advances in actuarial science, the cost of a pension plan cannot be predicted with precision over a long period of time. The reason is that actuaries must base their estimates on assumptions of human and business conduct and of the course of the business cycle. These may not be borne out, and the individual business management may have little or no control over them. Thus, estimates of future costs of pension plans take into account such matters as average age at which employees are hired and their average length of service, the rate of employee turnover, the life expectancy of the retired employees, and the rate of return on invested pension funds. Except for the life expectancy of the retired employee, any assumption concerning these matters may be altered by fluctuations in the business cycle.

For example, to reduce future liability costs, a business may attempt to hire only younger men. (Some implications of this will be discussed later on.) In a period of expansion and shortage of labor, however, this hiring policy may have to be violated or the company will find its expansion plan blocked by lack of personnel, particularly in key skills. It was precisely because of the unavailability of younger workers during World War II that a large number of older workers secured good jobs. Unless the older workers are excluded from the coverage of newly adopted plans, they will increase the cost of such plans during the first years of their existence.

Periods in which labor is scarce are also periods of rising prices. A rising price level hits pensioners, a fixed income group, hard. During such periods, unions will demand increased payments for present and future pensioners. These demands may not be easily resisted, and the effect again will be to increase costs substantially.

During periods of unemployment, prices may fall. At such times, there is not likely to be a demand for a decrease in pension payments. In fact, a period of decreased employment might also increase the accrued

cost of pension plans. Because of the widespread use of the seniority criterion in determining layoffs, the longer a period of low employment, the higher the percentage of older men that are likely to be found in plants. The larger the number of older men employed, the higher is the cost of retirement plans. Therefore, instability of business and employment complicates pension planning whether the instability is in the upward or downward direction. Instability is not at all unusual in our dynamic capitalistic economy where progress is by leaps and bounds rather than by a smooth flow.

Real Costs of Pension

A basic law of economics is that the real cost of anything is what one foregoes in order to secure it. If business spends a certain amount on pensions, other things being equal, less will be spent on wages or other items of costs, or less will be allocated to profits, unless a business can pass the whole burden of the pension costs onto the consumers. To the extent that the products which the workers buy are increased in price by the costs of pensions, the workers contribute to these costs as consumers. There is no such a thing as a free pension. It must be paid for, either directly or indirectly, in the form of higher prices, unless the pension cost is offset by increased productivity.

Pensions, moreover, introduce into cost calculation an item that is less flexible than wages, even granting the rigidities of the present wage structure. Employees can be laid off—pensioners cannot.

Finally, it should be noted that increased productivity does not decrease the cost of paying pensions, except insofar as it permits the business to operate with less workers and, therefore, fewer future pensioners. Pensioners involve a cost without any direct return since they do not contribute to production. On the other hand, an indirect return may accrue from the fact that pensions sometimes permit younger and more efficient workers to take over jobs.

Compulsory Retirement

One way in which industry can reduce the cost of pensions is to cease retiring people at 65 regardless of whether the person is qualified to keep on working.

The compulsory-retirement movement is the result of several factors. For one thing, it permits private retirement plans to be co-ordinated with OASDI. Second, it prevents discrimination in retirement. Third, it

is backed by those who feel that compulsory retirement is necessary in order to prevent unemployment among younger men. And, fourth, it results from the natural desire of management to give younger and sometimes more efficient persons opportunities in the better jobs.

The last reason is of prime importance to concerns which have collective agreements making seniority one, if not the only, criterion governing promotions. Such companies are sometimes hard pressed to hold the more able younger employees who see nothing but frustration ahead if promotions are made on the basis of seniority alone. The fact that less than one half of the men in the United States who are 65 years of age and over now work is in part the result of the compulsory-retirement policy of business.

Forced retirement at 65 aggravates the pension question because many people do not want to retire. To be sure, for certain jobs, mainly the professions, where new ideas are so essential and where the retired person can continue to be active in his field, blanket retirement at 65 may be defensible.

For the great majority of jobs, however, the age of 65 is too early for retirement. Had the rule of retirement at 65 been generally in effect in August, 1949, 3 million fewer people would have been at work in the United States, and the annual output of the economy would have been nearly \$11 billion less—except to the extent that the dropping of older workers might have raised the efficiency of younger workers.¹⁸

Moreover, the fact that the population is growing older increases the need to develop better tests for retirement than mere physical age. Some persons should be retired at 55—others at 75. Unless some superior retirement criteria are developed, we shall be throwing some of our best talents on the scrap heap instead of using them to add to the national wealth and income.

If we do develop these superior criteria for retirement, however, we should not expect the problem of retirement costs to be insignificant. Even at the age of 70 the average male may expect to live 9 years longer. Superior retirement criteria should reduce the costs of retirement and increase the product of industry by letting otherwise idle people work. But retirement costs will still be substantial.

Since management decisions as to when a person should retire are challenged by unions in many retirement plans, we may expect greater flexibility in retiring age and less automatic retirement. This is an asset of bargained pensions.

¹⁸ Summer H. Slichter, "The Pressing Problem of Old Age Security," *New York Times Magazine*, October 16, 1949, p. 9.

Pensions and Investment

Pensions are not only a present cost but, more important, they are an increasing prospective cost. Hence, pensions tend to reduce prospective profits except insofar as pension costs offset tax costs. Since the decisions of potential investors are based upon the future profit outlook, pension commitments can adversely affect investment. If this occurs, then the volume of employment which depends upon investment will also decline.

Pension plans may also affect investment by changing the direction of funds which are headed toward the investment market. This is true because pension plans, if conceived on a sound actuarial basis, require the establishment of tremendous reserves. Almost \$29 billion had accumulated in pension funds by December, 1956, and these funds were increasing at the rate of \$3½ billion per year.

Table 40 shows how these reserves were invested, and how holdings of insured plans differ from holdings of noninsured plans. This may tend

TABLE 40
WHERE PRIVATE PENSION FUNDS ARE INVESTED
Percentage Distribution; End of Year

TYPE OF ASSET	ALL CORPORATE PENSION FUNDS		NONINSURED PLANS		INSURED PLANS*	
	1956	1951	1956	1951	1956	1951
U. S. government securities	11.3	24.1	13.8	31.6	7.9	16.1
Corporate bonds	47.0	41.9	52.3	45.4	39.7	38.1
Corporate stocks	16.6	9.8	26.1	15.8	3.7	3.3
Mortgages	15.4	13.6	1.4	n.a.	34.4	28.3
Other	9.8	10.6	6.4	7.2	14.3	14.3
Total	100.0	100.0	100.0	100.0	100.0	100.0
Millions of dollars	28,914	13,276	16,639	6,876	12,275	6,400

*Total assets of United States Life Companies (\$68.3 billion in 1951 and \$96.0 billion in 1956) were distributed in this manner. It is assumed that the same breakdown is applicable to the portion of assets accounted for by pension reserves.

n.a.—Not available.

SOURCES Securities and Exchange Commission; Institute of Life Insurance; The National Industrial Conference Board, Inc.

to reduce the amount of venture capital which is available for more risky and more employment-creating investment. To put the matter another way, pension plans tend to remove investment policies from the businessman and turn them over to the pension trustee.

If pension plans are handled by insurance companies, the situation will not be materially different. To be sure, insurance companies have invested large sums in other industrial enterprises and have provided the

capital to finance many a business expansion. They have also financed the building of important housing developments. Insurance companies, however, are restricted in the extent to which they can provide venture capital, not only by various laws but also by the very nature of their business. They can devote only a limited amount of funds even to furthering investment of blue-ribbon concerns. Venturing capital on a risky but important operation is not the prime business of an insurance concern.

Pensions and Thriftiness

Before leaving the general question of investment, it might be well to question whether the existence of a pension will reduce the average person's propensity to be thrifty. Those who argue that pensions will have this effect tend to the view that when old-age security is provided for by a pension, the need for thriftiness will disappear.

It is not likely that this pessimistic view will prove correct. High prices and high taxes have already made thriftiness a minor factor in old-age security. Moreover, few pensions pay more than 50 per cent of average income. Even in the past it seemed that one's children, not one's thriftiness, carried the major share of providing for those who, by reason of age, could no longer work. It is difficult to disagree with the view of Professor Sumner Slichter that "there are many good things which the ordinary person can acquire only by practicing thrift quite rigorously. Any wage earner who buys a house at present prices will have a good opportunity to be thrifty for years to come."¹⁹

Pensions and the Labor Market

Increased development of pensions on a plant or industry basis has two major effects on the labor market. In the first place, it tends to make labor less mobile; and in the second place, it tends to make industry more reluctant to hire older workers.

The nearer a worker gets to his retirement, the less likely he is to change jobs, under ordinary circumstances. This is true because of the well-known difficulties which older workers have in finding employment under normal conditions.

In recent years, seniority has made the employment problem of older workers more difficult. Seniority insures that a sizable percentage of workers in most plants will be in the older age group. Hence management must be careful to give employment preference to young workers in order to prevent a company from becoming an old man's organization.

¹⁹ S. H. Slichter, "The Pressing Problem of Old Age Security," *New York Times Magazine*, October 16, 1949, p. 71. The rise in prices since 1949 adds emphasis to this point.

Now employers are becoming more and more conscious of the costs of a retirement program and of the fact that the higher the average age of their labor force, the greater is the cost of the retirement program. There can be no doubt that bargained pensions have added significantly to the already difficult task of keeping older workers employed. With a population in which the percentage of older workers is increasing, this poses a very serious problem.

Likewise, workers, and especially those above the age of 40, will be reluctant to leave jobs even for openings which pay more money since they will not want to risk losing their pensions. The cumulative effect of seniority and pensions is important here, too, because when workers leave one job for another they start at the bottom of the seniority scale. Therefore, if starting a new job means losing a pension and being at the bottom of the seniority list, the tendency will be to play safe and not transfer.

Reluctance to change employers because of loss of pension rights can be reduced through vesting and multiemployer plans, but the obstacles to anything like a widespread vesting program are immense, cutting, as such vesting rights must, across company, industry, and union lines. The opposition to, and difficulties involved in, multiemployer plans indicate that such plans will not be an important over-all factor in the near future.

Moreover, the presence of a vesting provision in a plan does not necessarily protect the accrued credits of all individuals whose employment is terminated. Vesting rights are usually conditioned upon the completion of a stated period of credited service and/or the attainment of a specified age. For workers whose job tenure is relatively short, such restrictions would tend to limit their ability to obtain vested pension rights.

Internal Union Problems

Besides limiting freedom of movement in the labor market, bargained pensions also place great authority over individual security in the hands of employers and union leaders. As Professor Clark Kerr has put it,²⁰ "Pension plans can be used to induce too much conformity. Discharge by the company, or by the union under maintenance of membership rules, can then deprive a man simultaneously of his job and his stake in a pension plan. Greater subservience to company and union may ensue than is proper for a free man."

Given the fact that younger persons cannot be expected to be as interested in pensions as are those nearer retirement age, pensions tend to

²⁰ Speech before the 308th Regular Meeting of the National Industrial Conference Board, New York, November 22, 1949.

increase the already existing schism in unions between older and younger men. Such a cleavage can be a significant factor in union demands and in internal union politics. At one extreme, a union controlled by older men could stress retirement benefits to such a degree that direct wage increases would be forced to a minimum or even that future benefits themselves would be endangered. At the other extreme, a union controlled by younger men might renegotiate pension payments downward in order to increase wages or other more immediate benefits. The difficult fiscal problems, as well as plain headaches, which such possibilities involve are virtually unlimited.

Political pressures are not confined to internal union politics. The United States is a land of rival unionism in which each leader is on the spot not only from within his organization but, perhaps more important, from outside rivals as well. Indeed, "we have reached the stage where a limited number of key wage bargains effectively influence the whole wage structure of the American economy."²¹ The union leader who fails to keep up the pace not only suffers loss of face, prestige, and esteem but may lose part of his union as well. When Walter Reuther wins higher pensions for the Auto Workers, David McDonald is challenged to do likewise for the Steelworkers. Pattern setting and following can determine the size and character of the pension as well as the size and character of the wage increase. In both cases the economic facts pertaining to the individual firm and its employees are likely to be lost in the shuffle.

The rival union situation is especially acute when an employer deals with several unions. Here each organization may try to secure a better deal than the other, whereas the employer invites disaster unless all are treated uniformly. The difficulties inherent in bargaining on pensions, first with this union, then with that one, and at the same time trying to develop a coherent, sound pension system, are almost endless.

All this adds up to the fact that pensions are not an easy subject to determine at the bargaining table, especially in the light of pressures inherent in the American labor movement. Certainly, the emergence of pensions as a significant element in collective bargaining is fraught with dangers for both labor and management.

Nonunion and Nonpension Competition

If a pension covers more than one company, the failure of one company adds to the financial burdens of those remaining in business. The

²¹ John T. Dunlop, "American Wage Determination: Its Trend and Significance," *Wage Determination and the Economics of Liberalism* (Washington, D.C.: United States Chamber of Commerce, 1947), p. 42.

Miners Health and Welfare Fund is a good example. Basically a pay-as-you-go plan, it was forced to discontinue payments for a time when business was slack. Marginal mines going out of business in effect transfer their pension costs to mines operating. Meanwhile nonunion coal mines, free of the 40-cent-per-ton royalty charged union mines to pay welfare and pension benefits, are increasing their share of bituminous coal sales. This, in turn, is placing more and more unionized mines in a difficult business situation and forcing them to cut down on work hours. Although their rates of pay and benefits may be less, miners outside of the union fold resist unionization because they work steadily and thus have higher weekly and annual earnings than do the unionized miners. The welfare and pension costs of unionized miners are a significant cost factor adversely affecting employment opportunities and income for unionized coal miners.

Bargained Pensions in a Depression

Most bargained pensions have been negotiated in prosperous times when additional costs could either be absorbed as charges which reduced taxes or be passed on to the consumer. In times of poor business and low or nonexistent profits, the pension costs cannot be thus passed on. Undoubtedly, in cases of marginal firms, the costs of pensions may be the difference between survival and bankruptcy.

If a company goes out of business, pension rights are in jeopardy. In the case of a pay-as-you-go plan, pensions stop if the business ends. Where plans are funded, payments continue usually on some prearranged basis, until the trust fund or the annuities are exhausted. In any case, the pension is ultimately dependent on the prosperity of the business.

What will happen if wholesale business failures threaten the solvency of bargained pensions? Will the federal government be called in to bail out the various private plans just as the Reconstruction Finance Corporation was created in the early 1930's to bail out banks and businesses threatened with collapse?

There is already a precedent for such a move. The Railroad Retirement Act provided that "pensions that were being paid by employers to individuals in the spring of 1937 were assumed by the (government) plan to the extent of \$120 a month, and any general reductions that had been made in these (then private) pensions after the year 1930 were restored."²² Although the railway pension system is supposed to finance itself through taxes which are now set at 6 per cent of the first \$3,600 of

²² R. B. Robbins, *Railroad Social Insurance* (New York: American Enterprise Association, 1945), p. 9.

payroll for carriers and a like amount for employees, most authorities agree that some of the cost has been met through general taxation and that the federal treasury will be called upon for increasing contributions in the future.

Thus, already the taxpayer is supporting a pension system for a special group, and one, moreover, which provides more liberal benefits than does Old Age, Survivors, and Disability Insurance. The collapse of bargained plans in the steel, coal, or automobile industries could result in the establishment of a series of government single-industry plans similar to the railroad setup. The impediments to mobility, the invitation to old-age lobbies, and the administrative difficulties which would result can be imagined. And what is more important, a series of one-industry plans tends to provide better security for the favored few at the expense of the many who do not happen to work in a favored industry or belong to a favored union.

Fortunately, there is an alternative to the hodgepodge of private plans, special government plans, and old-age assistance handouts. That alternative is the basic federal OASDI program, financed largely by joint employer-employee contributions, paid to insured beneficiaries as a matter of right rather than as a matter of need, and with payments based upon past earnings so that the efficient, the hard-working, the better-earning individuals will receive, as they deserve, a higher pension than those lower on these competitive scales. Unlike privately bargained plans, it does not impede mobility or adversely affect the older worker's chance of a job. It is fully contributory and, in principle, meets nearly all the requirements of a sound pension system. It would seem that the bargained pension would serve best as a minor supplement rather than a major ingredient in a nation-wide pension system.

QUESTIONS FOR DISCUSSION

1. Discuss the difference between the Old Age, Survivors, and Disability Insurance program and the Old-Age Assistance program from the point of view of administration, coverage, benefits, and basic approach.
2. What are the principal arguments for and against a pay-as-you-go system of financing OASDI?
3. What are some of the problems raised by bargained pension plans? Discuss the effect of such plans on the functioning of the labor market.

SUGGESTIONS FOR FURTHER READING

BURNS, EVELINE. *Social Security and Public Policy*. Economics Handbook Series. New York: McGraw-Hill Book Co., Inc., 1956.

All the important facets of social security are considered against the background of the questions they raise for public policy.

CIVIC, MIRIAM. "Income and Resources of Older People," *Studies in Business Economics*, No. 52. New York: National Industrial Conference Board, Inc., 1956.

Compact treatment of the economic status of persons 65 and over.

Bulletin of the International Social Security Association, March–April, 1957. The General Secretariat of the I.S.S.A. Geneva.

Issue devoted to social security legislation in the United States and includes excellent articles on concepts and philosophy as well.

Chapter 20

SECURITY AGAINST UNEMPLOYMENT

Progress in our industrial society moves by leaps and bounds; its course does not run smoothly. One of the unfortunate results is the business cycle with its recurrent periods of unemployment of part of the labor force. The most severe period of unemployment in our history was during the 1930's when somewhere between 15 and 20 million persons who wanted work were unable to find it. It is understandable that a period of such mass unemployment would result in an attempt to secure workers against a recurrence of such a hardship. Actually, however, the unemployment compensation provisions of the Social Security Act, and the state laws relating thereto, are not aimed at mass, long-term unemployment. Instead they have the less ambitious goal of bridging the gap between jobs during more normal periods of business and during short recessions.

Since some of our largest unions were formed at a time when mass unemployment existed, they have always been interested in measures designed to mitigate the hardship and insecurity associated with loss of employment. In Chapter 6 we noted the widespread interest in seniority and division of work as one aspect of such union concern. More recently, unions have developed increased interest in dismissal compensation and supplementary unemployment compensation benefits as additional measures to lessen the burden of unemployment. In this chapter we shall review the governmental unemployment insurance program and then consider dismissal wages and supplementary unemployment compensation benefit plans.

UNEMPLOYMENT INSURANCE

What is unemployment insurance? Briefly stated, it is a program providing for partial maintenance of income during temporary periods of unemployment. It is insurance against a portion of the wage loss suf-

ferred when workers lose their jobs. Funds are built up by taxes on wages during periods of employment so that weekly benefits can be paid to workers during periods of unemployment. These benefits are paid as a matter of right to claimants who qualify under the law. There is no "means test," as there is with other forms of public assistance.

Unemployment insurance must of necessity be government administered. Workers or employers can buy retirement insurance, disability insurance, health and accident, and even workmen's compensation insurance from private carriers, but no private insurance company can afford to sell unemployment insurance because of the unpredictable risks involved.

Under our unemployment insurance laws, the risk or cost of unemployment insurance is spread over all the geographical areas and industries of a state. The cost is also spread over time in that taxes are collected in both good years and bad, and benefits are paid out as needed, depending upon varying economic conditions over time.

Development of the Unemployment Insurance Program

Unlike Old Age and Survivors Insurance, which is entirely a federal program, the field of unemployment compensation was left primarily to the states by the Social Security Act of 1935. This was done apparently for fear of a constitutional challenge before a then supposed-hostile Supreme Court, and because one state, Wisconsin, had already adopted an unemployment compensation law and others were seriously considering such legislation. The role of the federal government in unemployment compensation was thus restricted, provided that the states followed certain procedures set forth in the Social Security Act of 1935. This Act provided for a 3 per cent tax on the payroll of all employers employing eight or more workers during 20 weeks of 1 year in all except certain excluded employments. The Social Security Act further provided that employers who were paying taxes in their own states for the financing of an unemployment insurance law could offset that state tax against the federal tax up to 90 per cent. The inducement afforded by this offset provision resulted in the passage of unemployment compensation legislation by all the states in a very short time.

The Social Security Act laid down certain conditions which state unemployment compensation laws were required to meet if employers of that state were to be made eligible for the tax offset. In the first place, all funds collected by the state had to be used entirely for the payment of unemployment benefits through state public employment offices or a similar state agency approved by the Social Security Administration. Second,

the Social Security Act provided that the taxes must be deposited immediately upon receipt in the Unemployment Trust Fund of which the Secretary of the Treasury is the administrator. Third, no benefits were to be paid until 2 years after the collection of contributions began. Fourth, a state law could not deny benefits to a person otherwise eligible if that person refused to accept new work because the position offered was vacant on account of a labor dispute; if the wages and conditions of work were substantially less favorable than those of similar jobs in the area; or if as a condition of employment the person would be required to join a company union or to sign a yellow-dog contract. Finally, states were required to meet certain administrative standards established by the Social Security Administration in order to qualify for the tax offset.

Coverage of Unemployment Insurance Laws

At the time the Social Security Act was adopted, there was general acceptance of the idea that for administrative reasons, some size-of-firm restrictions were necessary for the federal-state system of unemployment insurance. Therefore, the federal unemployment tax provisions applied only to firms which employed eight or more individuals in the United States at least 20 weeks in a year. In addition, the Social Security Act of 1935 excluded from coverage the following classes of services: (1) agricultural labor; (2) domestic service in a private home; (3) service of officers and crews of vessels on the navigable waters of the United States; (4) service of an individual in the employ of a son, daughter, or spouse, or of a child under 21 years in the employ of his father or mother; (5) employment of federal, state, and local governments; and (6) employment by nonprofit institutions which are operated exclusively for religious, charitable, or educational purposes.

Agricultural and domestic workers, and to some extent family workers, were exempted chiefly for administrative reasons. State and local governments were exempted because the application of the federal unemployment tax to such government units was believed to be unconstitutional. Federal workers and maritime workers were considered to be exclusively under federal jurisdiction. The exclusion of religious and other nonprofit institutions was based on exclusions in earlier tax laws.

The most significant addition to the coverage of the federal law was made in 1954. Coverage was extended to employers of four or more workers in 20 or more weeks of a year, effective January 1, 1956. At the same time, unemployment protection was added for federal civilian employees unemployed after December 31, 1954. As a result, about 3.9 million more workers were afforded unemployment insurance protection—

2.5 million federal civilian employees and an estimated 1.4 million workers in commerce and industry in 283,000 firms with 4-7 employees in twenty-five states.¹

There is considerable variation from state to state in coverage with respect to size of the employer unit. As of November 1, 1956, fifteen states, Alaska, Hawaii, and the District of Columbia provided coverage under their respective laws for firms employing as little as one worker, Oregon required a minimum of two employees, four states required a minimum of three employees, and twenty-eight states restricted coverage to firms employing a minimum of four persons.²

There is also variation with respect to state treatment of other exclusions. For example, New York State covers domestic servants in private homes which employ four or more such workers. Connecticut, New York, Rhode Island, and Wisconsin provide mandatory coverage for state employees, with certain exceptions, and permit election of coverage for employees of political subdivisions within the state. Ten other states specifically permit local governments to elect coverage. About 120,000 state and local government workers are now covered.³

Table 41 shows how the coverage of the unemployment insurance laws has grown over the past 10 years. As can be seen from the table, in 1956 about two out of every three workers were entitled to the benefits of unemployment compensation.

Eligibility

The mere fact that a worker is engaged in covered employment does not qualify him to receive unemployment benefits if he should lose his job. To receive benefits, the worker must (1) file a claim for benefits; (2) register for work at a state employment office; (3) have left his previous job for reasons which do not disqualify him for compensation; (4) not have refused suitable employment offered to him; (5) be willing and able to work; (6) have served a waiting period; and (7) have earned a certain amount of wages or worked a certain time in covered employment during a specified period.

Certain of these requirements are obvious ones which any unemployment insurance system needs in order to operate effectively, but most are matters which can and do vary in administration from state to state. Unemployment compensation is designed to aid those who are looking

¹ Bureau of Employment Security, "Twenty Years of Unemployment Insurance in the USA," *Employment Security Review*, August, 1955, p. 21.

² Data from Bureau of Employment Security.

³ *Employment Security Review*, August, 1955, p. 23.

for work after having lost a job; hence, it is required that a worker must register and file a claim, that he be willing and able to work, and that he not turn down suitable employment when offered to him. Registering and filing a claim are administrative necessities which cannot cause much if any interpretative differences. However, the requirements of being willing and able to work and of not turning down suitable employment vary considerably in interpretation from state to state. Likewise, the reasons for leaving the previous job which disqualify a worker for compensation are subject to considerable variation among the states.

For example, all state laws disqualify a worker from benefits, either wholly or partially, if he is unemployed because of a stoppage of work caused by a labor dispute in which he is directly involved; if he has voluntarily left his job; if he is discharged for misconduct; or if he has refused suitable work without good cause. Other states disqualify workers who leave jobs to get married, or because they become pregnant, or because they retire from the labor market to take care of home duties. Disqualifications include leaving a job to go into business for oneself or to return to school or college.⁴

Each state has a board or administrator whose function is to decide questions of eligibility and qualification for unemployment compensation, and appeal to the courts is possible. A considerable body of law has

TABLE 41
UNEMPLOYMENT INSURANCE BENEFITS 1946-56

YEAR	CIVILIAN EMPLOYMENT (MILLIONS OF PERSONS, 14 YEARS OF AGE AND OVER)		COVERED EMPLOYMENT AS % OF CIVILIAN EMPLOYMENT *	AVERAGE WEEKLY PAYMENT FOR TOTAL UNEMPLOYMENT (DOLLARS) *
	TOTAL	Covered by Unemployment Compensation *		
1946	55.2	30.2	54.7	18.50
1947.....	58.0	32.3	55.7	17.83
1948.....	59.4	33.1	55.7	19.03
1949.....	58.7	31.7	54.0	20.48
1950. ..	60.0	32.9	54.8	20.76
1951 ...	61.0	34.9	57.2	21.09
1952..	61.3	35.6	58.1	22.79
1953.....	62.2	36.7	59.0	23.58
1954	61.2	35.4	57.8	24.93
1955	63.2	39.0	61.7	25.08
1956†..	65.0	41.0	63.1	27.05

* Data for 1955 and 1956 include state programs and programs for federal employees; all other years are for state programs only.

† Preliminary.

SOURCE: *Economic Report of the President, January, 1957* (Washington, D. C.: U. S. Government Printing Office, 1957), p. 116.

⁴ That the disqualification provisions have teeth can be seen from the fact that in 1954 a total of 1,616,000 persons making claims for compensation were disqualified. *Employment Security Review*, August, 1955, p. 45.

arisen on these questions in each state, with some states interpreting disqualifications very strictly and others more leniently. It can, and no doubt does happen, therefore, that persons in different states may leave jobs for the same reasons, or turn down offers of employment under the same circumstances; yet one person may receive compensation, while the other is denied it.

Waiting periods have become much more uniform, with the trend away from the original 2- and 3-week waiting periods before unemployment benefits could be claimed. As of November, 1956, forty-four states required a waiting period of only 1 week and four states did not require a waiting period at all.⁵

Earnings and employment qualifications have also been liberalized since the first state laws went into effect. Originally, eligibility was generally determined by a given number of weeks of employment in a base year. Today, however, most of the laws determine eligibility on the basis of specified earnings during a benefit year, but the employment requirement, or a combination of employment and earnings, is still utilized by a minority of the states.

Since eligibility is related to employment within a particular state, workers would lose rights by moving from one state to another if it were not for the existence of an Interstate Benefit Plan whereby workers who qualify for benefits in one state may draw their benefits in another. The home state pays the benefits, and the state in which the worker then dwells acts as the agent for the transaction. All forty-eight states cooperate in this plan. The Interstate Benefit Plan, however, does not help a worker who would qualify for benefits only if his credits in both states were totaled. As a result, an Interstate Wage Combining Arrangement has been subscribed to by forty-four states. This plan provides for the totaling of credits in instances where that is necessary to make determinations for eligibility.

Benefits

Since the inception of the unemployment insurance program, there has been continuous progress in liberalization of the benefits payable to workers who are unemployed. At first, most of the state laws provided for payment of benefits based upon a percentage of full-time weekly wages or average weekly wages. Later, the full-time weekly wage with an alternative of the weekly wage determined by the highest quarterly earnings was extensively utilized. Today, most of the states compute the weekly unemployed compensation benefit as a fraction of the highest quarterly earnings in the base period. This change in the basis of computing bene-

⁵ Data from Bureau of Employment Security.

fits has obviously increased the actual benefits which have been received by unemployed workers.

Likewise, one state after another has increased the maximum weekly benefit from the \$15 with which most states started to \$30 or more. In 1957 alone, eighteen states enacted unemployment compensation legislation increasing the level of maximum benefits. As can be seen from Table 41, average weekly unemployment compensation benefits rose from \$18.50 in 1946 to \$27.05 in 1956. The principal reason for the increased maximums was, of course, the upward trend in average weekly wages in covered employment. If benefits are to be reasonably related to weekly earnings during a period of rising wages, the maximum weekly benefit must reflect these increases. Despite the action taken from time to time by state legislatures in improving benefits, the increase in weekly benefits has lagged behind rising wages so that the average payment in the country as a whole has dropped from 41 per cent of the average wage of covered workers in 1939 to 34 per cent in 1954. (See Fig. 45.)

Another aspect of the movement toward liberalization of benefits has featured extension of the duration for which benefits are payable. The first laws generally provided for the payment of benefits for 16 weeks or less. In 1954 and again in 1955, President Eisenhower recommended uniform duration of at least 26 weeks. As of March 1, 1958, only three states—Arkansas (18), Florida (16), and Virginia (18)—had maximum benefit duration of less than 20 weeks; 28 states and the District of Columbia and Alaska provided maximums of 26 weeks; and one state—Pennsylvania—provided a uniform benefit duration of 30 weeks.⁶

Only a minority of the states have adopted provisions, common in other social insurance laws, to increase the weekly benefits of claimants with dependents. In 1937 only the District of Columbia provided dependents allowances. Since that time twelve states have added provisions of this nature, and one state—Arizona—has repealed its dependents allowance and instead increased its basic maximum benefit from \$20 to \$30. All states having dependents' allowances include an allowance for a dependent child under a given age, and three states provide allowances for specified adult dependents. These laws usually provide an allowance of a specified weekly amount for each dependent, varying from \$1 to \$5, with a ceiling on the total allowance.

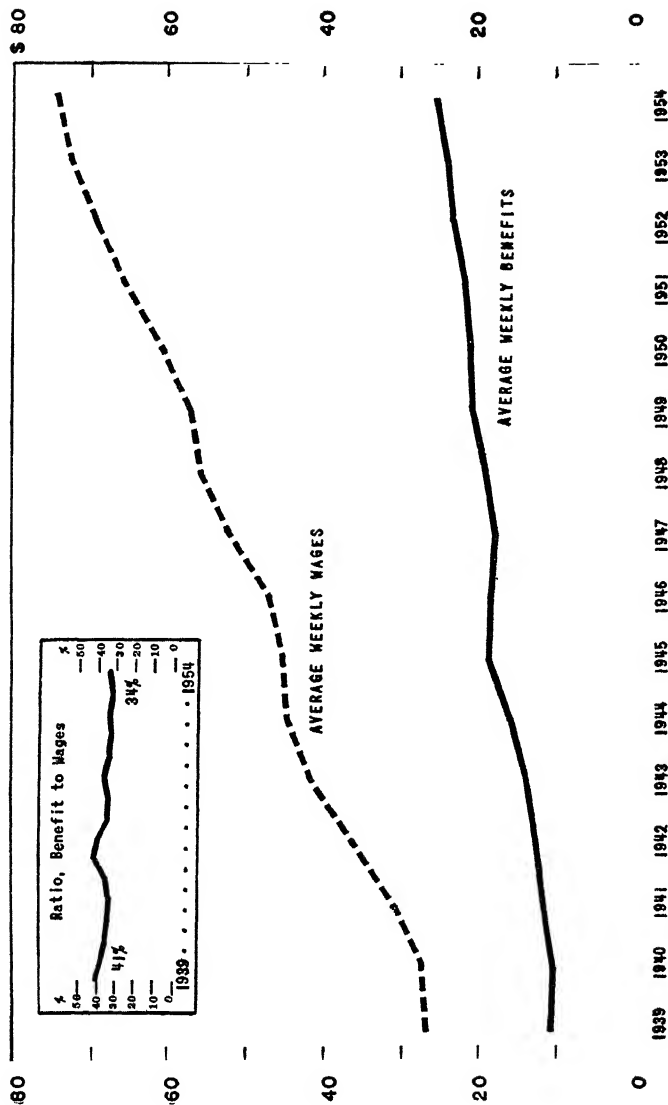
Financing

As already noted, the Social Security Act of 1935 provided that states could offset the 3 per cent payroll tax up to 2.7 per cent by enacting

⁶ *Business Week*, March 29, 1958, p. 104.

FIGURE 45

TREND IN AVERAGE WEEKLY BENEFIT AND AVERAGE WEEKLY WAGES, 1939-54



SOURCE: Bureau of Employment Security, *Employment Security Review*, August, 1955, p. 37.

unemployment compensation legislation and complying with other rules set forth in the Social Security Act. This was done by all of the states, most of which levied a 2.7 per cent tax, although some levied 3 per cent on covered payrolls. A state may levy a tax upon employers above 2.7 per cent if desired or needed. Except in five states, the employer's contribution, like the federal tax, is based upon the first \$3,000 paid to (or earned by) a worker within a calendar year; in Alaska, Delaware, Nevada, Oregon, and Rhode Island the contribution is based on the first \$3,600 per year.

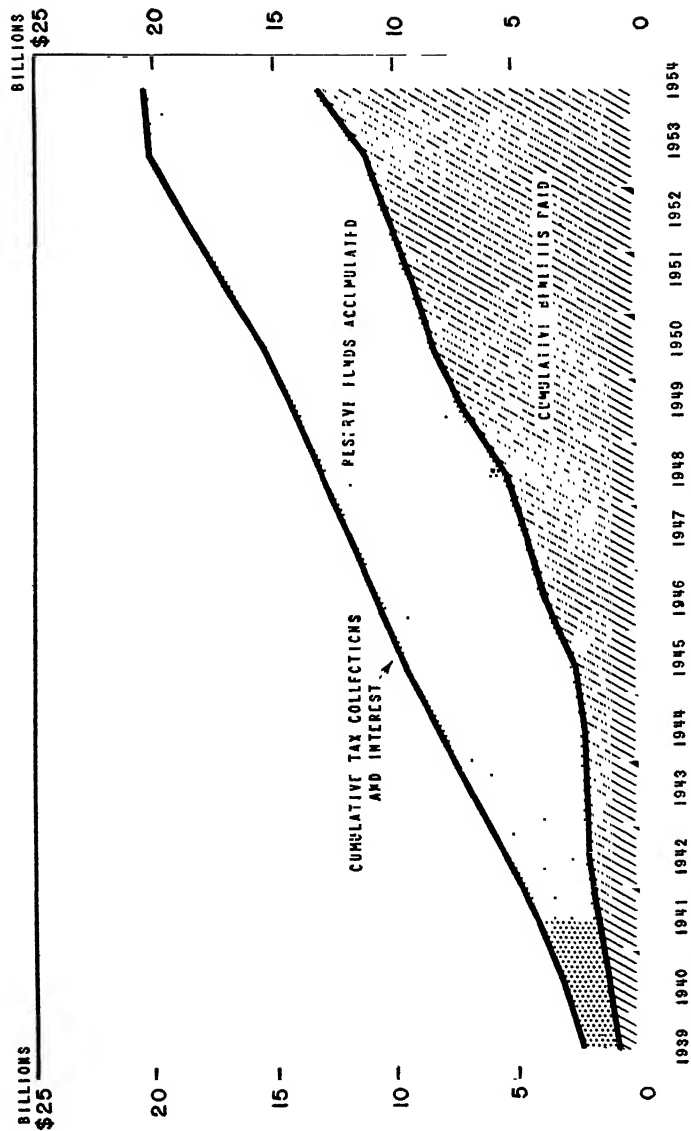
The Social Security Act permits the states to finance unemployment compensation in a number of different ways, but all except two states now have pooled unemployment insurance funds whereby the total contributions of all employers are pooled together in one fund deposited with the United States Treasury, and compensation is paid to those eligible for benefits from this pooled fund. Two states, North Carolina and Kentucky, provide for a combination of employers' reserve and partially pooled funds, whereby in part of the fund all contributions are mingled and undivided, and in part a separate account is set up for each employer. In this instance, the pooled funds are used to pay benefits only after the exhaustion of a reserve account of an employer.

Regardless of the method of financing, the Social Security Act requires that all money received in a state unemployment fund must be paid to the Secretary of the Treasury, who deposits it in a Treasury fund known as the Federal Unemployment Trust Fund. Withdrawals from a state's account may be made only for unemployment benefits, or for unemployment benefits because of temporary disability, but in the latter event, only to the extent of employees' contributions in such state. As will be pointed out in Chapter 21, only three states have adopted temporary disability laws that are integrated with this provision of the Social Security Act.

The 3 per cent rate, chargeable to employers only, was based upon anticipated unemployment of a more severe nature than actually occurred once the law began to operate fully. Moreover, the costs of administration have been less than anticipated. As a result, reserve funds developed rapidly. Even during the sharp recession of 1938 most of the states then paying benefits collected more money than they paid out. Figure 46 shows the growth of reserve funds from 1939 to 1954. As reserves grew, pressures became persistent for a reduction in tax rates. Since under the provisions of the Unemployment Tax Law, experience rating was the only method by which states could reduce tax rates, all of the states were led to adopt experience rating plans.

FIGURE 46

TRENDS IN CONTRIBUTIONS COLLECTED, BENEFITS PAID, AND RESERVE FUNDS ACCUMULATED, 1938-54



SOURCE: Bureau of Employment Security, *Employment Security Review*, August, 1955, p. 29.

As a result of the increase in benefit levels and the reduction in employer contributions by reason of experience rating, some experts are now concerned about the level of reserves maintained in the various state accounts and feel that if there should be a really serious recession, some state funds would prove inadequate to meet the demands upon them. They point out that in 1945 and again in 1949 (in both of which years benefits were increased), benefits paid out exceeded collections. Neither of these periods were characterized by really major downturns in employment. If relatively slight variations in the business cycle or in the rate of benefits causes such a drain on reserves, it is quite possible that a serious recession would strain the reserve funds beyond capacity.

It will be recalled that the Social Security Act left the federal government 0.3 per cent of the unemployment compensation tax for administrative purposes. The Act further authorized the annual appropriation of the sum of \$80 million to the states to assist them in the administration of the unemployment compensation laws, provided the states act in conformity with the Social Security Act. Actually the entire cost of administration is covered by these grants because all funds collected from taxes on employers or employees must be used for payment of benefits. Federal grants are also made to the states for the cost of administering the state employment offices through which unemployment compensation benefits are handled. Since the costs of administration have proved to be less than anticipated, the federal government has developed a substantial surplus from the 0.3 per cent tax. The Administrative Financing Act of 1954 utilizes these surpluses to protect the solvency of the insurance funds. It provides for the automatic appropriation to the Federal Unemployment Trust Fund of the annual excess of Federal Unemployment Tax collections over employment security administrative expenses. These excess collections will be used first to establish and maintain a \$200 million fund in the federal unemployment account which will be available for noninterest-bearing loans to state agencies with depleted reserves. The excess collections beyond \$200 million will be returned to the states for use in financing benefits—and under certain circumstances may be appropriated by state legislatures for financing administration.

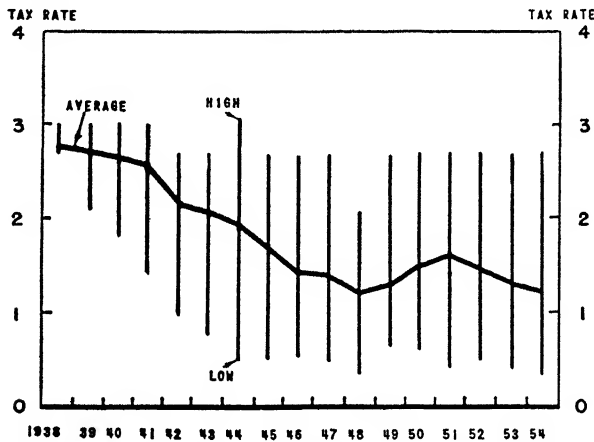
Experience Rating

The Federal Unemployment Tax Act provided that employers can get credit against the federal tax not only for the contributions they pay under a state law but also for the contributions they are excused from paying under the state experience-rating system. As a result of this incentive, all states adopted experience-rating plans by 1948. In general, these

plans provide for rates substantially lower than 2.7 per cent for employers with good experience in maintaining stable employment and higher rates for the employers who are least successful in accomplishing this objective. In 1955, twelve states had a zero rate in their most favorable schedule; ten states had a maximum rate over 2.7 per cent.⁷ As a result of this tax variation, the average tax rate for the country as a whole has consistently been lower than the 3 per cent provided in the Social Security Act. Figure 47 shows the downward trend in the tax rate which in 1954 stood at about 1.2 per cent.

FIGURE 47

NATIONAL AVERAGE EMPLOYER TAX RATE AND RANGE OF STATE AVERAGES, 1938-54



SOURCE: Bureau of Employment Security, *Employment Security Review*, August, 1955, p. 28.

Experience rating is based upon the idea that the employer has a very considerable power to stabilize employment and that an incentive should be accorded him to do so. The framers of the Social Security Act were impressed by the manner in which variable insurance rates had aided accident reduction under workmen's compensation legislation (see Chapter 21), and they believed that the same results could be expected by variable taxation under unemployment compensation.

As a matter of fact, experience rating assumes far more control over fluctuation in employment than the average employer has in our interdependent economy. We have already noted in earlier chapters that an employer does not have complete control or even substantial control of the size of his labor force over periods of time. To be sure, an employer may be able to cut off the peaks and fill up the valleys of demand by careful attention to marketing and sales programs. The character of the indus-

⁷ *Employment Security Review*, August, 1955, p. 27.

try and the demand for the product of that industry is, however, likely to predetermine whether or not the employer has a stable employment situation. A number of states have, in actual fact, partially abandoned employment stabilization as the prime object of experience rating and instead utilize experience rating as a means of controlling the unemployment tax rate and providing for a minimum balance in their trust fund accounts. These states permit employers to make voluntary contributions to the unemployment trust fund of an amount sufficient to qualify them for lower tax rates.

One of the most unfortunate economic results of experience rating is that taxes are likely to be reduced in times of prosperity and raised in times of depressions. Experience rating makes insufficient provision for the fact that most good employment records are made when general economic conditions are good and bad ones when general economic conditions are bad. Consequently, the costs of unemployment insurance taxes are low when industry is best able to pay them, and high when industry is least able to pay them.

Another effect of experience rating is that it tends to give employers an important interest in restricting benefits as much as possible. The prospects of a favorable tax rate are increased in those states which have the longest waiting periods, the most rigid eligibility and disqualification provisions, and the smallest benefits.

Employee Contributions

Based upon the concept that employers would respond to a tax incentive by regularizing their employment, the Social Security Act refers specifically only to contributions or taxes from employers. There is, however, no proscription against also taxing employees, and this has been done, at one time or another, by nine states. However, only two states—Alabama and New Jersey—now collect employee contributions for unemployment insurance. Those favoring employee contributions believe that employees, as well as employers, should contribute to their security against unemployment and that more liberal benefits could be paid if employees also were taxed. Organized labor, however, has generally been opposed to employee taxes, and many employers fear that if employees contribute, the pressure for more liberal benefits will be so much greater that employer taxes will be higher not lower. The fact that since 1940, unemployment has been very low has carried the argument for those opposed to employee contributions, and most of the states which provided for employee contributions repealed this feature of their laws.

In 1946, Congress amended the Social Security Act to provide that

an amount equal to the total of employee payments paid into a state unemployment fund could "be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration." Three states, Rhode Island, New Jersey, and California require employee contributions to provide disability benefits in accordance with this provision. Since disability legislation deals with security against sickness, it is discussed in the following chapter.

APPRAISAL OF UNEMPLOYMENT COMPENSATION

Although unemployment compensation is essentially a state program and therefore varies significantly from state to state, it can be appraised as a whole, with one of the factors to be examined being the desirability of state control and administration.

Coverage, Eligibility, and Benefits

Less than two thirds of the labor force is covered by unemployment compensation. A similar situation existed with respect to Old Age, Survivors and Disability Insurance prior to the 1950 amendments. Although coverage of OASDI was greatly expanded in that year, no comparable change was made in unemployment compensation. Perhaps the reason is that the aged and their votes are increasing, but since 1940 unemployment has not been a serious national problem. Moreover, until the movement for supplementary unemployment compensation benefits assumes the proportions of the union pension drive of 1949-50, employer support for more liberal unemployment compensation coverage is not likely to achieve the proportions which the union pension drive gained for OASDI liberalization.

There are several problem areas involved in improving unemployment compensation coverage. A major one involves the exclusion of small firms with fewer than four employees. This appears particularly unjustifiable, since there is no compelling reason for its continued existence. Such small firms have already been covered in many states. Retention of this exclusion discriminates against employees of small firms and puts the small employer at a disadvantage in competing in the labor market.

A second problem involves coverage of agricultural and domestic service employment; such coverage is much more difficult under unemployment compensation than under OASDI, and may not be administratively feasible. This is true because of the large amount of casual work and the rapid rate of turnover in these employments. "Because of the almost complete absence of standardization of wages and working con-

ditions, coverage would create serious difficulties in the administration of cases involving refusal of suitable work, discharge for misconduct connected with the work, and voluntary quitting."⁸ Whether these difficulties can be satisfactorily overcome will determine in large part whether these types of unemployment can be brought under an expanded unemployment compensation system.

Eligibility requirements also tend to reduce coverage. One estimate is that in an average year as many as 20 per cent of those covered do not measure up to the eligibility requirements and are therefore not able to receive benefits. The idea, of course, is that a person must be attached to the labor market to receive benefits. This is often a difficult question to determine and is, in addition, subject to varying administrative discretions in different state jurisdictions.

Eligibility is also affected by interpretations of disqualification conditions. The tendency in recent years has been to harden disqualifications, but the rules vary tremendously from state to state. Consistency and standardization of eligibility requirements and disqualification rules in the various jurisdictions are obviously in order.

Two special problems of unemployment insurance concern the coverage of seasonal workers and retired employees. In a number of states, employees in seasonal industries have been able to earn the required number of credits and then have drawn benefits for the maximum period allowable under the applicable state law. For example, professional athletes in such seasonal endeavors as baseball have applied for and been declared eligible for benefits! In most cases, however, the earnings of the applicants have been much less than those associated with the sport or entertainment world, and their occupations equally less glamorous.

Even when the need of the worker is real, the seasonal industry poses a real problem for the unemployment insurance system because such insurance is not financed to handle unemployment on a regular basis. There is, indeed, no ready solution for this problem, but until some special form of unemployment insurance is worked out, seasonal industries will continue to burden the general unemployment insurance system.

Recent court decisions in New Jersey permit an involuntarily retired worker to draw both his pension and unemployment insurance so long as the retired worker "actively seeks work." If nothing else, this decision should help force legislative co-ordination between retirement and unemployment insurance programs so that the utilization of one form of security is not an excuse to benefit by another form of security.

Benefits and benefit duration have been greatly liberalized over the

⁸ Eveline M. Burns, *The American Social Security System* (Boston: Houghton Mifflin Co., 1949), p. 130.

original amounts; yet the cost of living has risen at least as much as the average increase in benefit amounts. When the Social Security Act was passed in 1935, loss of earnings during short-term unemployment between jobs was the target problem which unemployment compensation was designed to mitigate. Despite the liberalization of benefits and benefit duration, unemployment compensation remains fundamentally a security program dealing with short-term unemployment. In the high prosperity year of 1955, an average of 28 per cent of the recipients of unemployment compensation exhausted their benefits before securing a new job.⁹ Some of these persons probably did not look too hard for a job before exhausting benefits and were able to escape disqualification while so loafing. Undoubtedly, however, only a small proportion were in this category. If and when jobs are harder to find, the number and proportion of unemployed exhausting their benefits before finding employment is likely to be large. Those in want must then depend upon their own resources and/or public assistance. As more and more become unemployed and exhaust benefits, fewer are then eligible for unemployment compensation, for under all state laws, eligibility depends upon working. Thus as a depression deepens, unemployment compensation aids a smaller proportion of the labor force.

Despite these limitations, unemployment compensation is an important bulwark against a downward cycle in business. The existence of unemployment benefits for a sizable proportion of the labor force is certain to cushion any downswing of the business cycle, for it permits those newly unemployed to do some spending which would otherwise be impossible, and thus to add to the volume of purchasing power and to the general demand for goods and services. Unemployment compensation provides potential purchasing power and demand for a future recession or depression, whereas such purchasing power and demand were not available in the 1930's when it was sorely needed. An important advantage of unemployment compensation is that benefit payments automatically increase when business falls off. Whether anyone has forecast the recession or not, the unemployment benefits are paid.

Unemployment insurance preserves skills, as well as income. It reduces pressure on jobless workers to take blind-alley jobs in which they would lose their skills. It also facilitates the free flow of workers between communities.

State Administration, Experience Rating, and Financing

Unemployment compensation legislation and administration, although required by the Social Security Act to meet certain standards for

⁹ Data from Bureau of Employment Security.

financial and tax aid, vary significantly from state to state. If one believes that states' rights are important to our way of life and government, and if one believes that states' rights include the right to operate an unemployment compensation plan different from other states, then, philosophically, one should support the present arrangement. Moreover, many persons believe that, other things being equal, the smaller state unit can operate more efficiently and bring administration closer to the citizen.

In practice, it appears that the state-operated unemployment compensation system is not as economic nor necessarily as efficient as an overall federal system might be. Certainly, the state-operated system is no more efficient, if as efficient, as the federal-operated OASDI system. When World War II broke out, the federal government took over the state employment offices and ran them for the duration. Such operation under one law and one bureaucracy would seem to have advantages in administration over the present system of fifty-three separate bureaucracies representing each state, territory, and the District of Columbia. This means different rules and rulings on persons similarly situated in regard to coverage, eligibility, disqualifications, and a host of other matters directly affecting both taxpayers and unemployed, although there is little, if any, reason for such differences.

Actually there is not one national system of unemployment compensation but a series of state ones. Unfortunately, boundaries of labor markets and states are not identical. Despite the increasing co-operation between states, the fact remains that persons residing in the same labor market (for example, the New York City, St. Louis, Philadelphia, or Washington, D. C., areas) can be treated with vast difference in case of unemployment, solely because their place of work is across a state line. Moreover, under the existing state systems, employers are required to submit different forms, comply with different procedures, and pay different contribution rates in accordance with varying state laws. An employer operating on a nation-wide basis is required to submit quarterly wage reports on individual employees in some states, annual reports in others, and weekly reports in still others. Employees who reside in Maryland received minimum weekly benefits of \$6 and maximum weekly benefits of \$38 as of November, 1956; those who resided in Virginia received minimum and maximum benefits of \$8 and \$28. In Louisiana the minimum and maximum benefits were \$5 and \$25, in neighboring Mississippi, \$3 and \$30. The inequality of benefits from state to state can prove to be a serious discouragement to the mobility of labor; and the varying rates of employer contributions can result in an unhealthy race to reduce costs—and benefits—in order to attract business.

The spread of experience rating is a direct result of the pressures resulting from state competition. States in which experience rating was at first strongly opposed have adopted it to keep competitive in industry costs. We have already noted that experience rating tends to reduce costs during times of low unemployment and to increase costs when unemployment is high. It is not unlikely that experience rating will discourage employment during recessions because at that time compensation taxes are likely to be highest. A tax on payrolls affects the marginal costs of the firm. To increase such costs in recessions, which appears inevitable for most firms under experience rating, is to add to marginal costs at a time when such costs are most sensitive and when increased marginal costs can most easily and adversely affect employment.

If reserves under present methods of financing are inadequate to meet benefits if large-scale unemployment occurs, and if states wish to amend their laws to keep tax rates down, the only other method of financing is deficit financing—borrowing to pay the cost of unemployment because of imprudent methods of financing during periods of prosperity. Borrowing increases the cost of unemployment compensation by the amount of the interest charges, and it passes that cost on to the future. The cost of failure to levy a higher charge when unemployment is low is thus likely to be either higher taxes when they can be least afforded or deficit financing to escape the taxes required to fulfill commitments.

Closely allied with the financing problems involved in experience rating is the almost complete absence of employee contributions. By placing the entire financing burden on employers and relieving the employee of a direct contribution, the Social Security Act has encouraged employers to concentrate on keeping cost down by pressure for experience rating and by pressure against more liberal benefits, and it has at the same time encouraged employee groups and unions to lobby for increased benefits with little, if any, regard for costs. If employees were taxed directly to support unemployment compensation, they could oppose experience rating with a far more effective voice, and they would be in a more responsible position to obtain a greater share in determination of the amount and duration of benefits. A benefit structure that is more liberal and an unemployment compensation system that can withstand large-scale unemployment are both likely to require not only less emphasis on experience rating for employers but also more emphasis on employee contributions.

Many unions, however, appear to be more interested in building up their own methods of security defenses against unemployment of their members rather than concentrating upon improving the unemployment compensation laws. How practical and effective these union techniques

are likely to be, and what may be some of the possible economic effects of their adoption, are discussed in the second part of this chapter.

THE DISMISSAL WAGE

The dismissal wage is a payment, usually in the form of a lump sum, made by an employer to a worker who has been laid off permanently from his job. It is frequently based on length of service and compensation received during the period of employment. For example, a common formula for determining the size of a dismissal wage is one week's pay for each year of service. The dismissal wage has become an important part of organized labor's program to provide security against loss of earnings due to unemployment. Among the unions which have obtained dismissal wage payments from employers with whom they bargain are the American Newspaper Guild, which has more such agreements than any other union, the Amalgamated Clothing Workers, the Textile Workers Union, the International Ladies Garment Workers' Union, the United Steelworkers, and the Railroad Brotherhoods. The number of companies providing dismissal wages has more than doubled since 1940. It is estimated that about one out of every seven companies gives such severance pay today.¹⁰ Interest in dismissal wage payments will undoubtedly grow in the future, particularly if business should turn downward and unemployment resulting from automation becomes an acute problem.

Management's Attitude toward Dismissal Wage

Dismissal wages are not a union idea. Managements in many progressive companies have made such payments voluntarily for many years. Typically, the payments are made when long-service employees have to be dropped from the payroll, either because new laborsaving machinery has eliminated their jobs or because contraction in demand for the product they manufacture necessitates a permanent reduction in the labor force or abandonment of the plant.

Some companies look on dismissal wages as a sort of supplement to a pension plan. For example, suppose a company provides pensions for employees at age 65 but has to lay off certain long-service employees at age 55. Most companies would recognize an obligation to these men and would usually give them some amount of dismissal pay at the time of termination of their employment.

On the whole, management recognizes the need for dismissal wage payments in cases of long-service employees who will find it difficult to

¹⁰ *Business Week*, April 2, 1955, p. 123.

obtain employment elsewhere. However, management is opposed to the idea of general payment of dismissal wages to all employees who are laid off, on the ground that ups and downs of employment are not within the control of the employer and requirement of payment of dismissal wages would simply add to the cost of doing business and in the end discourage investment and reduce employment. While the payments may be most justified in the case of technological unemployment which renders obsolete the skills of particular workers displaced by machines, management contends that the requirement of paying large dismissal sums to workers displaced by laborsaving machinery might make it so expensive to introduce laborsaving machinery that investment in such machinery would be discouraged. If this were to happen, technological displacement of labor in particular firms might be lessened, but employment and income in the economy as a whole would suffer by reason of the reduced expenditures on new plant and equipment.

Labor's View of Dismissal Wages

Labor spokesmen view the dismissal wage not only as a crutch to assist the displaced worker during a period of unemployment but also as a club to compel management to minimize displacement of labor. The idea is to make employers think twice about laying off employees when they put in new machinery by making such layoffs costly. As stated by the late Philip Murray, "The objective, of course, primarily is not to provide dismissal wages to displaced workers, but to compel industry to keep workers on the payroll by planning the introduction of technology, so that industry will not have to pay the dismissal wages and workers are not displaced."¹¹

In other words, from the point of view of the union, the dismissal wage is a means of making unemployment costly to the employer. Unions would use dismissal wages to restrain employers from introducing new machinery in times of depression and falling demand when it was difficult for them to utilize the displaced labor elsewhere in their plants. Unions believe that the dismissal wage would make employers reappraise their hiring and layoff policies. In an establishment where a dismissal wage plan was in effect, the employer in hiring new workers would have to take into account the chance that he might ultimately have to lay them off and pay them dismissal wages. Similarly, whenever he considers firing workers, he would take into account the amount of the dismissal wage and the chance that the size of the labor force might have to be

¹¹ Philip Murray, *Technological Unemployment*, United Steelworkers Publications, No. 3 (1940), p. 39.

increased in the future. Obviously it would not pay the employer to lay off workers and give them dismissal compensation if he anticipates he may have to rehire them in the near future. The possibility of saving payment of dismissal wages can be thought of as reducing the cost of keeping men on the payroll during the intervening period of slack demand. Thus dismissal compensation, according to union spokesmen, would not only encourage employers to plan their technological changes in such a way as to produce a minimum of dislocation to labor but also would have some tendency to iron out short-term fluctuations in employment.

The Dismissal Wage and Wage-Employment Equilibrium

To date, dismissal compensation has been applied primarily to displacement of labor which is attributable to technological change or to a more or less permanent decline in demand due to changed consumer preferences. If, however, unions succeed in broadening its scope so as to apply it to any type of unemployment—even to that resulting directly from increases in labor costs—then an interesting situation would develop with regard to wage-employment equilibrium in the firm. Assume, for example, that a company has such a broad dismissal wage plan in force and that the union secures a large wage increase. The employer is now confronted with a situation in which maintenance of the same volume of employment has become more costly, but reduction in the size of the work force, while cutting one kind of wage cost, would add another. This dilemma may encourage the employer to seek other ways of reducing costs rather than to take the course of reducing the payroll through a reduction in the work force. Thus it may be found possible to eliminate wastes in use of materials, plant space, and other factors so it will not be necessary to raise prices at all. However, this presupposes a backlog of inefficiency which may not exist. In the normal case, the union wage increase will produce an increase in prices, but, because of the dismissal wage requirement, employment will not be reduced by the full amount which would have occurred had there been no such plan in effect.

Thus, the existence of a dismissal wage requirement can produce a range of indeterminateness in wage-employment determination. In effect, it raises the upper limit to which, in given circumstances in the short run, the wage can be increased without altering the volume of employment. The number of layoffs which will result from a wage increase will depend upon the size of the wage adjustment, the elasticity of demand for the product, the degree to which this form of labor can be substituted by capital, the relation of labor costs to total costs, the size of the

dismissal wage, and the length of time for which the changed cost-price situation is expected to prevail. Assuming that anticipated future cost-price changes will be such as to require an expansion of the work force, the larger the dismissal wage and the shorter the period for which the changed cost-price situation is expected to prevail, the greater will be the inducement to the employer to retain employees on his payroll. Since the men have become more expensive to the employer whether they are employed or unemployed, it is only logical that the employer should choose to get some work performed for the increased cost. Thus, from the point of view of the individual workers concerned, the dismissal wage has the effect of making the short-run demand for labor more inelastic.

Appraisal of Dismissal Wage

The dismissal wage has some merit as a means of controlling the rate of technological change. When the social cost of lost skills, abandoned towns, poverty, and unemployment is taken into account in the balance sheet of technological progress, it is possible that the unrestricted substitution of machinery for labor has produced a rate of progress in excess of what might be regarded as the optimum rate for the community. Insofar as a dismissal wage compels employers to adopt a rational plan of technological improvement with a view to minimizing the disturbance to employment, and further compels them to assist the men displaced during the transition period, it simply distributes to management a share of the burden of the social cost of change. But where, as in the case just examined, the dismissal wage is associated not with technological progress but simply with a union wage increase, the same justification for the dismissal wage is not applicable. In the latter case, the effect of the dismissal wage is to make it costly for the employer to discharge workers and to adjust his operations to the new high level of costs imposed by the union.

Even in the case of technological change, however, the desirability of dismissal wage payment is debatable. As has been mentioned, requirement of payment of dismissal wages would make management hesitate to introduce laborsaving machinery in times of depression and falling demand; yet these are the very times when, from the point of view of the economy as a whole, investment expenditures by industry should be encouraged, not penalized. Furthermore, it is not easy in practice to distinguish unemployment which is attributable to laborsaving machinery from unemployment due to the ups and downs of the business cycle. If employers introduce new laborsaving machinery in times of expanding demand, they often can use the displaced workers elsewhere in the plant.

Then when recession sets in, these men and others are laid off. Should managements in individual companies assume the burden of paying dismissal compensation at such times for these men or should unemployment compensation be handled exclusively by the state or federal government? One drawback of leaving dismissal compensation to decisions of individual companies and unions is that the amount which a worker will receive will vary from company to company depending upon the size of the firm, the generosity of the employer, the strength of the union, and similar considerations. A liberalized program of government unemployment compensation would probably provide a more equitable distribution of benefits and have a less depressing effect on investment in new technology than the union-sponsored program of dismissal compensation. It must be borne in mind that the ultimate union objective may be further liberalization of state unemployment compensation benefits and that pressure for dismissal wages may simply be a means of letting employers know that unless they support legislation to achieve this objective they are going to bear the cost of unemployment just the same.

At the present time, the dismissal wage fills a need which is not met by unemployment compensation or by supplementary unemployment benefits. Unemployment compensation, as we have seen, is aimed at temporary unemployment on the part of workers who have been laid off and are looking for a new job. Supplementary unemployment benefits, as will be pointed out in more detail in the final section of this chapter, are designed to take care of temporary layoffs, due to seasonal and other variations in business, of workers who remain attached to the labor force of a particular company. The dismissal wage, however, is particularly designed for long-service employees who find their jobs have ended because of a contraction in demand for the product or because of introduction of laborsaving machinery. Where the latter cause is involved, skills which these employees have built up over a long period of years may be rendered useless. Skilled workers can be transformed into relatively unskilled workers almost overnight by drastic change in the technology of an industry. If the workers affected are along in years, the result may be more or less permanent unemployment. Dismissal wages represent an attempt to compensate such workers for the more or less permanent loss of their employment. Union leaders argue that such compensation is particularly justified when technological change is the cause of the layoff, because technological improvement in industry generally results in effecting some savings for the employer, and it is only fair that such savings should be used in part to compensate the workers at whose expense the savings were made.

Relation to Unemployment Compensation

One of the problems which will be raised by the further extension of dismissal wage payment in industry is its relationship to unemployment compensation laws. At the present time, in many states, dismissal compensation is deemed to be a form of wages, and while a worker is receiving the benefit of such payments, he is not considered eligible for unemployment compensation. Thus, if he received 10 weeks' pay as a dismissal wage, he would have to wait 10 weeks until he was eligible for unemployment compensation. Of course, from the point of view of the unemployed worker, the dismissal wage is more desirable than unemployment compensation payments because usually the former is equal to his previous full weekly pay, while this is not true of the latter.

Should an unemployed worker be entitled to receive both unemployment compensation and dismissal wage? Union men would answer: Yes. They view the dismissal wage as a payment for past services and as a sum intended to reimburse the worker for the loss of earnings he may suffer in the future even if he obtains a new job, because he in effect has to start his working career all over again. On the other hand, management argues that in many states the tax it pays under unemployment compensation laws is based on the unemployment experience of the particular company. Therefore, if the company takes care of unemployed workers by paying them dismissal wages, they argue that it is unfair that they should pay twice by having the unemployment charged against their experience, which would be true if the worker draws unemployment compensation. Moreover, they say that while there is some merit to the "past-service argument" when long-service employees are involved, this does not hold where younger employees are laid off who can obtain other jobs more readily, and they point out that it appears to be the union objective to apply dismissal wages generally to the entire work force.

SUPPLEMENTAL UNEMPLOYMENT BENEFITS

At its convention in March, 1954, the United Automobile Workers unanimously went on record in favor of a new collective bargaining objective—a guaranteed annual wage. In June, 1955, the United Automobile Workers and the Ford Motor Company signed a historic contract which was hailed by union officials as containing the first major step toward the much-heralded labor goal of a guaranteed annual wage. Walter Reuther, President of UAW, stated the union attitude in these words: "This is the historic first step. We are charting new avenues here, and we

are willing to sweat this period out to find out what the experience teaches us and based on the experience, we can decide where we are going in the future."¹²

Examination of the UAW-Ford contract reveals however that the union did not gain a guaranteed "annual" wage at all. What Ford conceded was a supplement to state unemployment compensation for 26 weeks; it was at most a "semiannual" wage. And the wage guaranteed was not full pay but only 65 per cent of take-home pay for 4 weeks and 60 per cent for the other 22. Why then all the excitement about this issue? How does SUB (supplementary unemployment benefits) differ from GAW (guaranteed annual wage)? What kinds of SUB plans have since been adopted? What will be their economic impact? These are the questions to which we will address our attention in this section.

The Guaranteed Annual Wage

An annual wage guarantee is a guarantee by an employer to his employees of a weekly pay check of a constant amount for a given number of weeks of the year, usually forty or more, without a guarantee that the employee will be remunerated at his usual rate. The first collective-bargained wage and/or employment guarantees were put into effect in the 1890's, notably in the wallpaper industry. During this period and the early 1920's, many of the plans were adopted unilaterally by paternalistic employers. Practically all of these plans died during the depression of the 1930's. The Federal Social Security Act of 1935 included a specific provision to encourage the spread of guaranteed annual wage plans by permitting states to offer reduced unemployment compensation taxes to guaranteeing employers. The Fair Labor Standards Act of 1938 also sought to encourage these plans by permitting exemptions from the overtime pay requirements of the law where employment was provided on an annual basis. Relatively few companies, however, availed themselves of these provisions. As of the beginning of 1955, an estimated 200 of these plans were still operative with a relatively small coverage of employees. The plans were concentrated primarily in consumer goods and service industries in companies with a record of fairly steady production and employment. By and large, eligibility requirements sharply limited the number of workers covered by such plans, and there was no tie-in with state unemployment insurance systems.

The announcement by the UAW leadership that the union was going to seek guaranteed annual wage plans from the automobile com-

¹² Reported in *Business Week*, June 11, 1955, p. 152.

panies brought forth a torrent of speeches, articles, and assorted literature either for or against GAW.

The union argument had a number of facets:

1. If executives and office personnel are paid on an annual basis, why should the production worker be paid by the piece, hour, or day? Biologically a worker has the same necessity for regularity in satisfying his physical needs as his boss. Why then should he be paid any differently?
2. Management can, if it tries, do much to eliminate fluctuations in employment over the year. The annual wage cannot and does not attempt to cope with long-term cyclical unemployment—it is aimed at short-term layoffs. If the annual wage made it expensive for management to lay off workers, there would be an incentive to diversify production and adopt better scheduling practices so that year-round regular work could be provided.
3. Annual wages would increase and stabilize employment. Employers could finance the annual wage by making payments into a trust fund in good times and by drawing on the fund when layoffs are made. This would tend to stabilize purchasing power, make workers more willing to commit themselves to installment purchases of homes, appliances, etc.
4. The annual wage would achieve savings in labor cost by reducing labor turnover and the loss of skills which results from layoffs.

Management arguments were in many cases tinged more by emotion than reason. Thus, GAW was condemned as socialistic by the National Association of Manufacturers. The following basic arguments were advanced against GAW by employers:

1. To adopt GAW before stability in production has been achieved in an industry would put the cart before the horse. The steel industry and the automobile industry, both of which manufacture products characterized by extreme fluctuations in demand, cannot by themselves regularize employment and production. They cannot produce for inventory to any appreciable extent, nor can blast furnaces be used in off seasons for production of baby cereals. GAW would simply add another cost without stabilizing employment.
2. GAW would reduce investment and employment because employers would be hesitant about making new investments since in addition to the normal risks of business would be added the burden of paying annual wages to employees who might have to be laid off if the investment proved unprofitable.
3. GAW would run counter to a basic principle in unemployment compensation; namely, that a worker's salary should be reduced when he is not working so that he will have an incentive to seek other work while

his regular job is unavailable. If GAW means full or almost full pay for those laid off, the senior workers might actually vie to be laid off first in order to get what amounts to a paid vacation.

4. GAW would be used as an entering wedge by unions to attempt to control production schedules and would ultimately lead to unions having a voice in pricing, production planning, employment, and other management prerogatives.

While the UAW did not succeed in obtaining a GAW plan, many of the arguments, both pro and con, listed above are applicable to SUB. Furthermore, since the union spokesmen have indicated that they expect SUB to be a stepping stone to eventual GAW, the arguments surrounding GAW are still very much evident in both management and union pronouncements on SUB.

Supplemental Unemployment Benefit Plans

The main union drive for guaranteed annual wages and for supplemental unemployment benefits came from former CIO organizations involved in broad industrial coverage and representing workers over wide geographic areas. Spearheading the movement were the Steelworkers and the Automobile Workers. At the national level, craft unions on the whole evidenced little interest in such plans. This lack of interest was in part a reflection of their traditional pattern of confining bargaining to direct wages and working conditions, and in part to the different economic conditions under which most craft unions function. SUB has mushroomed since its big-time debut in the auto industry in 1955 to the point where it now covers about 2 million workers, mostly in autos, steel, can manufacturing, rubber, and glass.

SUB plans have been of two types, insurance fund and individual account:

Insurance Fund Plans. This type of plan is by far the most common today. The Ford plan falls in this class as do the other plans in the automobile industry, and in can manufacturing, steel, and rubber. While insurance fund plans differ in provisions among companies, they have these common characteristics:

1. Company contributions are based on payrolls, being limited to a fixed charge in accordance with employee hours worked.
2. Company contributions are paid into a trust fund established for the benefit of the employees covered. A maximum funding position is specified, and once it is attained, no further contributions by the employer are required unless the fund drops below this maximum.

3. State unemployment insurance benefits are included in the computation of total benefit awards.
4. Up to an established maximum, benefit amounts are related to a percentage of wages.
5. Generally, eligibility for the state benefits is a prerequisite for benefits under the company plan.
6. While company costs remain fixed until maximum funding is achieved, total benefits vary in accordance with trust fund position.¹³

Individual Account Plans. Individual account plans are primarily found in the glass industry, although they have also been adopted by the General Motors Euclid Division, Timken Roller Bearing Company, and Eaton Manufacturing Company. These plans provide for establishment of individual vested accounts for all employees, much like savings accounts. Plans of this nature have these common characteristics:

1. Individual accounts are established for each employee, and contributions are paid into the account by the employer based upon employee hours worked.
2. The accounts are vested—that is, they belong to the individual employee and he may draw from the account when he is laid off, ill, retires, or leaves the company. When he dies, any balance is paid to his estate. The plan is therefore considerably broader than a mere supplement to unemployment compensation.
3. There is no integration with state systems of unemployment compensation. Since the particular account belongs to the individual employee, he can draw from it whether or not he is eligible for state unemployment compensation benefits.

Comparison of Insurance Fund and Individual Account Plans

Both types of plans have certain common characteristics. On the whole, they represent “reserve financing” rather than “pay as you go.” In both cases, the liability of the employer is limited to a fixed cents per hour labor charge. Both adopt the plan of supplementing income rather than guaranteeing employment or annual wages.

Insurance plans, by pooling the risk of unemployment, can pay higher benefits to laid-off workers during the initial stages of the plan than is available from individual accounts. Insurance plans tend to maintain pay differentials among workers except for the highly rated employees since benefits are computed as a proportion of take-home pay.

¹³ Michael T. Wermel and Geraldine M. Beideman, “Supplemental Unemployment Benefit Plans: Their Economic and Industrial Relations Implications,” *BIRC Publication No. 4* (Pasadena Calif.: California Institute of Technology, January, 1957), p. 16.

This is not true of the individual account plans where payments are dependent upon the balance in the particular worker's account and the size of the benefit he chooses to draw. Insurance plans tend to equalize total jobless benefits as workers from low-benefit states will receive more in supplementation from the company fund than co-workers in states where state unemployment benefits are more liberal. Individual account plans, as we have already observed, have no relation to state benefits. From the tax point of view, contributions of the employer to the insurance fund are not deemed taxable income to the employees, and no income tax is paid by the employees until the funds are actually paid to them. On the other hand, company contributions to individual accounts represent additional income to the employee immediately, and the employer therefore is required to withhold income taxes on such amounts when they are credited to the respective accounts. In the long run, insurance type plans are likely to be cheaper for the companies. Because of the maximum funding provision incorporated in these plans, companies with low layoff experience will only have to pay sufficient amounts into the fund to keep the fund at the required level once the maximum is reached, whereas company contributions to the individual accounts presumably go on and on.¹⁴

Conflict with State Unemployment Compensation Laws

The supplementary unemployment benefit plans negotiated by UAW with Ford, General Motors, and Chrysler contained a provision making their introduction contingent upon the issuance of rulings by states in which two thirds of the employees of each company reside to the effect that payments to unemployed workers could be made by these companies concurrently with state unemployment benefits. In many states, a laid-off worker who receives vacation pay is not entitled to receive unemployment compensation, because the vacation pay is treated as "wages." There was considerable question at the time the UAW contracts were signed whether the SUB plans could be put into effect without amendment of state unemployment compensation laws. However, by the middle of 1956, favorable rulings had been made in seventeen states, including major industrial states such as Michigan, New York, New Jersey, Pennsylvania, and Massachusetts, permitting employees to receive concurrently state unemployment compensation payments and SUB payments from employers.

One of the states which thus far has refused to permit concurrent payment of SUB and state unemployment compensation is Ohio. This has posed a major problem to the United Rubber Workers because of the

¹⁴ *Ibid.*, pp. 20-21.

concentration of employment in the rubber industry in that state. In an effort to avoid conflict with the Ohio law, the United Rubber Workers and the Big Four rubber companies agreed to a so-called "alternate" plan and a "lump-sum" plan of payment of SUB benefits. Under the former, the employee who is laid off will collect unemployment compensation from the state for 2 weeks, forgo such unemployment compensation the third week and collect three times the SUB payment due for a single week, go back on the unemployment compensation roll for 2 more weeks, and so on. Under the latter, workers who are laid off will receive only state benefits during the weeks they are jobless. However, when state payments terminate or after they are recalled to jobs, the workers will receive a lump-sum payment equal to the difference between what they got from the state and 65 per cent of normal take-home pay for the idle period. In 1958 a plan similar in nature to the alternate plan described above is supposed to take effect for Ohio auto workers. However, on July 11, 1957, the Ohio Bureau of Unemployment Compensation, which had previously held illegal the concurrent payments under the UAW supplemental unemployment benefits plan, also ruled out the alternate and lump-sum plans.

The problem in the state of Ohio points up some of the difficulties which confront SUB plans in the years ahead. Even in states where favorable rulings have been obtained, employers may go to court to test the validity of such rulings. For a number of years, therefore, there will probably be a lack of uniformity among states in this respect so that employees working in one state will be entitled to state unemployment payments and SUB payments, while employees of the same company working in another state will be denied them. In general, however, payments out of the "individual account" type of plan found in the glass industry present no problem, since this is really nothing more than a forced savings plan, and when the employee withdraws money from his account, he is simply withdrawing savings rather than receiving compensation for services.

Appraisal of Supplementary Unemployment Benefit Plans

SUB plans have been condemned by management and hailed by labor. Management has claimed such payments will lead to malingering and that the cost will be ruinous. On the other hand, unions have stressed the beneficial effect of such plans in stabilizing and maintaining income in the economy. What are the facts?

Under the Ford and General Motors SUB plans, the typical laid-off employee who earns about \$100 a week before taxes and around \$87 after taxes (if he has a couple of dependents) will receive total benefits

(state and SUB) in many states of about \$57 a week. With payments at this level, the employee is still losing about \$30 a week by reason of being unemployed. There is therefore a strong inducement afforded him to get back to his regular job. If the employee prefers to live on this reduced sum while waiting to return to his regular job rather than taking employment elsewhere, this can hardly be called malingering. Most employees in this industry have built up skills, associations, and seniority which are valuable, and they can hardly be condemned for preferring to return to their regular jobs. In order to get employment elsewhere, most of these laid-off workers would probably have to conceal the fact that they intend to return to their former jobs. Management criticism that SUB will lead to malingering does not seem warranted at the present level of payments.

Likewise, the burden of costs imposed by SUB is not as great as has been pictured by some critics. Professor Slichter has estimated that in the automobile industry, the cost of the SUB plan, assuming a high annual layoff rate of 50 per cent of the average labor force, an average layoff duration of 15 weeks' unemployment, and SUB payments of \$30 per week, would amount to about 5 per cent of payrolls.¹⁵ No one is startled by 5 per cent wage adjustments these days, and since in most negotiations SUB plans were part of a "package" and granted in lieu of wage increases, the cost to the employer is not substantially different than if a large wage increase had been granted.

The big problem, of course, will come in future negotiations when unions attempt to liberalize plans by raising benefits and lengthening duration of payments. A recent UAW report has already commented on the fact that the three largest funds—of General Motors, Ford, and Chrysler—had \$114 million in their tills as of May 1, 1957, and had paid out only about \$4.8 million. According to the UAW fiscal experts, "this proves that benefits could be increased at the current rate of company contributions."¹⁶ Of course, after benefits are increased, it will be found that contributions have to be raised to keep the funds solvent, and so the cost of such plans will continually increase. It should be remembered that the union objective has been stated from the outset to be "a guaranteed wage—a full 100 per cent." If this level is ever reached, these plans will not only prove to be a real burden to employers but also will make unemployment the equivalent of a paid vacation.

Most economists are of the opinion that the spread of SUB plans outside of the industries in which they are now prevalent will be slow and on a limited scale. A major reason given is that the great majority of

¹⁵ S. H. Slichter, "Guaranteed Annual Wage," *Barron's*, April 11, 1955.

¹⁶ Reported in *Business Week*, July 13, 1957, p. 153.

workers are so well protected by seniority rules that supplementary unemployment compensation benefits mean little to them. Since the longer-service employees generally control union policies, the union is more likely to seek wage increases and similar benefits than SUB. Furthermore the spread of SUB plans will be much slower than that of pension plans because nonunion employers are more likely to install pension plans than SUB plans.

Because of the limited coverage of SUB plans, their impact in stabilizing income for the economy as a whole will probably be slight. However, it seems likely that SUB plans will be concentrated in manufacturing, mining, transportation, and construction—industries in which cyclical ups and downs of employment are greatest. Professor Sumner H. Slichter points out, therefore, that “even if supplementary unemployment compensation covers less than one fourth of the nonfarm employees, it will raise the incomes of a much higher proportion of the unemployed.”¹⁷ Furthermore, its impact in individual communities may be substantial.

The greatest shortcoming of SUB plans is that they are an unsatisfactory and incomplete method of meeting the real problem which requires attention—that is, the inadequacy of our state unemployment compensation laws. At best, union-negotiated SUB plans can cover only a portion of union members and an even smaller percentage of the total labor force. Moreover, it will be difficult for unions to negotiate such plans where they are needed most—in smaller weaker firms with fluctuating employment records and in companies faced by declining demand. Furthermore, such negotiated plans do not provide the pooling of unemployment risks, which is possible under a state-wide plan. It is to be hoped that union pressure for supplementary unemployment benefits will lead management, labor, and legislators alike to reappraise and attempt to improve our present inadequate unemployment compensation system.

QUESTIONS FOR DISCUSSION

1. Discuss the adequacy of the present system of unemployment compensation. To what extent are union demands for dismissal wages and supplementary unemployment benefits associated with inadequacies in unemployment compensation laws?
2. What impact do you think a 100 per cent guaranteed annual wage would have upon seniority rules?

¹⁷ S. H. Slichter, “Labor’s New Victory,” *The Atlantic Monthly*, September, 1955, p. 65.

3. Discuss the effect which dismissal wage plans may have upon employment (a) from the point of view of an individual firm, and (b) from the point of view of the economy as a whole.
4. What are some of the major differences between "insurance fund" and "individual account" SUB plans? Which is best for the employee? For the employer?

SUGGESTIONS FOR FURTHER READING

BECKER, JOSEPH M. *The Problem of Abuse in Unemployment Benefits*. New York: Columbia University Press, 1953.

A study of the nature and extent of abuse under our state unemployment compensation laws.

UNITED STATES DEPARTMENT OF LABOR. "Twenty Years of Unemployment Insurance in the USA, 1935-1955," *Employment Security Review*, Vol. XXII (August, 1955).

A series of articles covering in a comprehensive fashion the growth of unemployment insurance in this country.

WERMEL, MICHAEL T., and BEIDEMAN, GERALDINE M. "Supplemental Unemployment Benefit Plans: Their Economic and Industrial Relations Implications," *BIRC Publication No. 4*. Pasadena, Calif.: California Institute of Technology, January, 1957.

An excellent up-to-date survey of the nature and impact of supplementary unemployment benefit plans.

Chapter 21

SECURITY FOR THE SICK AND THE INJURED

Loss of income because of sickness and injury, together with the costs incurred by illness, reach staggering proportions. The Social Security Administration has estimated that nonoccupational short-term sickness alone costs American families close to \$7 billion per year in income loss, while consumer spending for medical care in 1956 exceeded \$12 billion. Figure 48 shows how the medical-care dollar was distributed and how the shares taken by the different items have changed since 1939 and 1949 when the totals spent were \$3 billion and \$8 billion, respectively. These estimates point to the seriousness of the financial burden caused by sickness and injury, and they explain why there is so much interest in programs that alleviate this burden.

In this chapter we shall discuss governmental and trade-union programs designed to provide income security for those who are unable to work by reason of illness or accident. In addition, we shall also discuss the issues involved in proposals to provide various types of health insurance to the employed population.

WORKMEN'S COMPENSATION

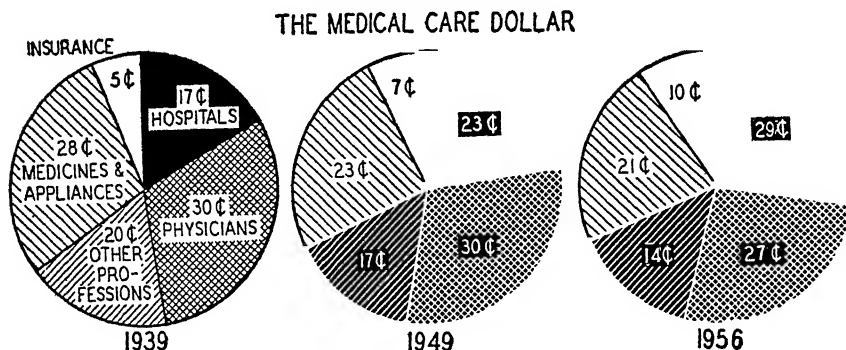
Workmen's compensation was the first type of social insurance to be developed extensively in the United States by legislation. It is designed to assure prompt payment of benefits to employees injured on the job or afflicted by occupational diseases; or, in case of a fatality in industry, to pay benefits to dependents. Workmen's compensation does not cover accident or injury outside of working hours, but only such disasters as occur on or pertain to the job.

The Development of Workmen's Compensation

Before workmen's compensation laws were passed, an employee injured on the job had little recourse. To be sure, under the common law,

FIGURE 48

HOSPITALS AND INSURANCE COSTS ARE UP MORE THAN OTHER CONSUMER MEDICAL-CARE ITEMS



SOURCES: Department of Commerce; National Industrial Conference Board, Inc.

the employer was required to provide a reasonably safe place for his employees to work. If, however, an employee was injured and the employer did not voluntarily pay some compensation, then the employee had to take the case to court for redress.

Besides the fact that employees rarely had the funds or sufficient legal assistance to pursue a case of this character in court, the employer had certain defenses which made it difficult for the employee to collect damages. In the first place, an employer might plead contributory negligence; that is, the victim was also at fault to some degree. Or the employer might attempt to prove that the real fault was lodged with a fellow worker. This was known as the doctrine of "common employment or fellow service." If these defenses were not available, the employer might plead a third one, the doctrine of "assumption of ordinary trade risk." Under this doctrine the employee was assumed to have knowledge that he was engaged in a dangerous occupation, and if he still chose to work in that occupation, he had to assume some of the risks of being injured. And, finally, in some states, even if the employer was negligent in providing for the safety of his employees, but the employee knew of this negligence, then the employee assumed the risk of the negligence and could not collect damages if he was injured.

In the latter part of the nineteenth and the early twentieth centuries, the federal government and several states passed legislation designed to modify some of these common-law doctrines. It was not, however, until the lawmakers ruled out the question of blame in industrial accidents and concentrated upon providing benefits to those injured that progress was really made in caring for injuries on the job. That does not mean, of

course, that legislators should not concern themselves with safety regulations and other protective measures. What it does mean is that despite precautionary measures, accidents will occur. Then the problem is to provide restitution rather than to fix blame.

The Nature of Workmen's Compensation Laws

The first workmen's compensation law was passed in New York in 1910. With the passage of a law in Mississippi, which became effective January 1, 1949, workmen's compensation legislation has now been enacted by all of the states, as well as by Alaska, Hawaii, and Puerto Rico. Federal laws cover civilian government employees, longshoremen and harbor workers, and private employees in the District of Columbia. (See Table 42.)

The number of employees actually covered by workmen's compensation legislation is, however, less than this summary would appear to indicate. In the first place, some states fail to provide coverage for certain types of accidents or diseases; and agricultural, domestic, and certain other workers are usually excluded from coverage of these laws. Then in twenty of the jurisdictions, workmen's compensation acts are elective rather than compulsory. In such states, employers may refuse to operate under the compensation act if they prefer to risk suit for damages by injured workers. The laws are partially compulsory and partially elective in five states. When employers elect not to come under a compensation act, employees may not be able to obtain compensation unless they sue for damages.¹

Besides agricultural and domestic workers, compensation laws usually exclude casual employment and employees in charitable and non-profit institutions, and occupations which are declared to be nonhazardous. In addition, railway and maritime employees come under the Federal Employers' Liability Act rather than under workmen's compensation. This has been done at the request of these two employee groups who find that they are able to collect more compensation by court suits than by compensation laws because of the fact the juries are generally sympathetic to them and unsympathetic to railroad and shipping concerns. Finally, in twenty-nine states and Puerto Rico, employers who have less than a specified number of employees, varying from two to fifteen, are excluded from compulsory coverage of compensation legislation.

Compensation laws are limited, not only as to persons and employers included but also as to injuries covered. For example, some states exclude coverage if the injury is due to the employee's intoxication, will-

¹ Basic data throughout chapter courtesy U.S. Department of Labor.

TABLE 42

WORKMEN'S COMPENSATION UNDER STATE LAWS, JANUARY 1, 1957

JURISDICTION	TEMPORARY TOTAL DISABILITY		DEATH BENEFITS		MAXIMUM ² MEDICAL CARE	BENEFITS FOR VOCATIONAL REHABILITATION	COVERAGE OF OCCUPA- TIONAL DISEASE
	Intended Benefit as % of Weekly Wage	Actual Maximum Weekly Benefit Allowed	Maximum Duration in Weeks	Maximum Total Payments			
Alabama . . .	55-65 % ¹	\$28	300	\$8,400	90 days-\$1,000	No	(³)
Alaska . . .	65	100		9,000-15,000	4 years	Yes	Full
Arizona . . .	65 ⁴	150 ⁵	W,C-18 ⁶	450	(7)	Yes	Limited
Arkansas . .	65	35		12,500	(8)	Yes	Full
California . .	61 $\frac{1}{2}$	40	200-316 ⁹	10,000-12,500		No	Full
Colorado . . .	66 $\frac{2}{3}$	31.50	312	9,859.50	6 mos-\$1,000	No	Limited
Connecticut . .	60	40	W,C-18 ⁶			No	Full
Delaware . . .	66 $\frac{2}{3}$	35	400 ¹⁰			No	Full
Dist. of Columbia	66 $\frac{2}{3}$	35	W,C-18 ⁶			Yes	Full
Florida . . .	60	35	350			Yes	Full
Georgia . . .	60	30	400		10 wks-\$1,125 ¹¹	No	Limited
Hawaii . . .	66 $\frac{2}{3}$	50	W,C-18 ⁶	20,000		Yes	Full
Idaho . . .	55-60 ¹	23-40 ¹	400, C-18 ⁶	8,000-10,000 ⁴		No	Limited
Illinois . . .	75-97 $\frac{1}{2}$	34-40 ¹		9,250-12,000 ⁴	(9)	No	Full
Indiana . . .	60-	33	350	12,500		No	Full
Iowa . . .	66 $\frac{2}{3}$	32	300		\$1,500 ¹²	No	Limited
Kansas . . .	60	32		12,500	120 days ¹³ -\$2,500	No	Limited
Kentucky . . .	65	32	400	12,000	\$2,500	No	Full
Louisiana . . .	65	35	400		\$2,500	No	Limited
Maine . . .	66 $\frac{2}{3}$	30	300	9,000	(9)	No	Limited
Maryland . . .	66 $\frac{2}{3}$	35	500	10,000	....	No	Full
Massachusetts . .	66 $\frac{2}{3}$	40 to average weekly wage ¹	400, C-18 ⁶	10,000	....	Yes	Full
Michigan . . .	66 $\frac{2}{3}$	33-57 ¹	450		....	No	Full
Minnesota . . .	66 $\frac{2}{3}$	25	W,C-18 ⁶	17,500	....	Yes	Full
Mississippi . . .	66 $\frac{2}{3}$	25	450	8,600	....	Yes	None
Missouri	66 $\frac{2}{3}$	35		12,000	....	Yes	Full
Montana	66 $\frac{2}{3}$	26.50-32.50 ¹	500		18 mos-\$2,500 ¹⁴	No	(²)
Nebraska	66 $\frac{2}{3}$	30	325			No	Full
Nevada	66 $\frac{2}{3}$	41.54	W,C-18 ⁶		6 mos. ¹⁵ 8	No	Full
New Hampshire . .	66 $\frac{2}{3}$	33	341	11,250		No	Limited
New Jersey . . .	66 $\frac{2}{3}$	40	350 ¹⁰			Yes	Full
New Mexico . . .	60	30	550			No	Limited
New York	66 $\frac{2}{3}$	36	W,C-18 ⁶			Yes	Full
North Carolina . .	60	32.50	350	10,000-		No	Limited
North Dakota . .	80	31.50-45.50	W,C-18 ⁶			Yes	Full
Ohio	66 $\frac{2}{3}$	40.25	416	12,000		Yes	Full
Oklahoma	66 $\frac{2}{3}$	28		13,500		No	Limited
Oregon	50-66 $\frac{2}{3}$ ¹	26.54-61.15 ¹	W,C-18 ⁶			Yes	Full
Pennsylvania . . .	66 $\frac{2}{3}$	37.50	350 ¹⁰		6 mos.-\$450 ¹⁶	No	Limited
Rhode Island . . .	60	32	600			Yes	Full
South Carolina . .	60	35	350	10,000		No	Full
South Dakota . . .	55	28		7,500 ¹⁷ -9,000 ⁴	20 wks-\$1,000	No	Limited
Tennessee	65	30	W,C-18 ⁶	10,000	1 yr-\$1,500	No	Limited ¹⁸
Texas	60	25	360	9,000	4 wks ¹⁰	No	Limited
Utah	60	30-40.50 ¹	313	8,800-10,759.38 ⁴	(7)	Yes	Full
Vermont	66 $\frac{2}{3}$	28 ²⁰	260	9,240	\$2,500 ⁸	No	Limited
Virginia	60	30	300	9,000	60 days ²¹	No	Full
Washington		17.31-42.69 ¹	W,C-18 ⁶	....		No	Full
West Virginia . . .	66 $\frac{2}{3}$	30	W,C-18 ⁶		\$1,600 ²² 8	Yes	Full
Wisconsin	(70)	45.50	(²³)	13,000 (Widows only) (For widows plus children, no maximum set) 6,000-12,350 ⁴	No limitation	Yes	Full
Wyoming		25.38-46.15 ¹	W,C-18 ⁶	....	....	No	None
U.S. Civil Empl'es	66 $\frac{2}{3}$ -75 ¹	121.15	W,C-18 ⁶		....	Yes	Full

¹The lower figure represents the benefit for a single worker; the higher the maximum for workers with dependents.

²Benefits may not exceed period of time or amounts indicated.

³Covers only specified dust or pulmonary diseases and other diseases caused by the inhalation of poisonous gases or fumes.

⁴The lower figure represents payments to a widow only, the higher, maximum payments for all dependents.

⁵Plus \$10 per dependent.

⁶"W" means payment to widow until death or remarriage; "C" means payment to children until age specified.

⁷Limited benefits for occupational disease in Arizona and Utah.

⁸Limited benefits for silicosis and asbestosis in Arkansas, Illinois, Maine, Nevada, Vermont, and West Virginia.

⁹Depending on size of award.

¹⁰After maximum weeks of payment, reduced benefits may be paid until children reach the age of 18.

¹¹Period may be extended for additional time and amount not exceeding \$375 within the discretion of the board.

¹²Divided into \$1,000 for hospital services and \$500 for medical and surgical. Commission may authorize an additional \$1,000.

SOURCE: U.S. Department of Labor; *Labor's Economic Review*.

¹³Additional time may be authorized in extreme cases. In case of occupational disease, an additional ninety days.

¹⁴In cases of total disability where the \$2,500 is insufficient to meet all hospitalization expenses, \$1,000 additional may be allowed.

¹⁵May be extended for specified limited period of time.

¹⁶Hospitalization for six months in addition to the \$450 total medical and surgical allowance.

¹⁷Or 4 times the average annual earnings whichever is less.

¹⁸Full coverage optional with employer.

¹⁹Up to 91 days for medical care may be authorized by the board.

²⁰Plus \$2 per dependent child under 21.

²¹Commission may extend for an additional period of 1 year.

²²May be increased by \$800.

²³Maximum death benefits payable to the widow are \$13,000, usually payable in weekly installments of 50 % of weekly earnings (maximum weekly earnings, established in 1955 legislation, are \$65). However, the Industrial Commission may vary the payments, depending upon the circumstances of each case. Additional benefits payable from Children's Fund to the widow for children under 16 years of age (13 % of the widow's benefit is usually the weekly or monthly allowance made for each dependent child).

ful misconduct, and gross negligence. In addition, two of the states, Mississippi and Wyoming, do not compensate employees for occupational diseases.

Nature of Benefits

Most of the acts provide compensation based upon a percentage of the worker's wage up to a specified maximum. A few states have, however, provided lump sums for specific types of disability, and other states vary the payments with the worker's marital status and number of dependents. The periods during which the compensation is paid vary tremendously, and the maximum weekly payments range from \$20 to \$150. In only eleven states are maximum weekly benefits \$50 or more. The higher the worker's wage, the less does compensation approximate his earnings.

Death benefits also vary considerably. In twelve states, the District of Columbia and under the federal workmen's compensation acts, payments are made to the widow for life or until remarriage, and to children until they reach a specified age. In thirty-one states, death benefits are limited to payments for periods ranging from 260 to 600 weeks, but two of these states continue to pay to children until they reach a specified age. Five states, Alaska, and Puerto Rico limit the maximum amount but not the number of weeks during which compensation is payable, while one state—Wisconsin—has a maximum amount for widows only, not for widows plus children. Death benefits are usually based upon a percentage of the average weekly wage of the deceased workman, but Oklahoma, Alaska, and Puerto Rico pay a lump sum, and Kansas pays a flat pension. Kansas and five other states vary the basic amount by number of dependents.

Fifteen states and the federal employees' act make total permanent disability payments for life, while nine states, Hawaii, the District of Columbia, and the federal longshoremen's act make payments for the entire period of disability. In the other states, the payments are limited from 330 to 550 weeks, and from \$3,500 to \$15,000. Payments also vary in some states depending upon the number of dependents.

Most compensation laws provide payments for permanent partial disability. Two categories of such injuries are generally recognized, scheduled and nonscheduled. The former includes specific injuries such as the loss of use of an arm or leg; the latter includes more general injuries, such as an injury to the head or back. Most states provide specific payments for scheduled injuries. The period of compensation for specified injuries varies tremendously. For example, for the loss of an arm at the

shoulder, several states pay compensation for only 200 weeks, whereas Wisconsin pays compensation for 500 weeks. Payments for nonscheduled injuries are generally related to the loss of earning power, and in many cases, they exceed payments for scheduled injuries. In nine states persons who are compensated for temporary total disability receive additional benefits for dependent children.

In all the compensation acts, medical aid is required to be furnished to the injured employees. In addition, forty-four acts require the employer to furnish artificial limbs and other necessary appliances.

Before any payments are made, nearly all states requiring a waiting period of 1 week after the injury. Medical benefits begin immediately, however, and compensation may be retroactive to the date of injury.

Administration

To make certain that benefit payments will be paid when due, the states require that the covered employer shall obtain insurance or shall give proof of his qualifications to carry his own risk, which is known as self-insurance. In most of the states the employer is permitted to insure with private insurance companies. State insurance systems exist in eighteen states and Puerto Rico. In seven of these states and in Puerto Rico the system is called "exclusive" because employers are required to insure their risks in the state fund. Competitive state funds exist in eleven states, where employers may choose whether they will insure their risks in the state fund, or with private insurance companies, or qualify as "self-insurers" with the privilege of carrying their own risks.

In most states, a specific agency has been established to administer the act. In five states, however, court procedure remains, and in New Hampshire there is a combination of agencies in court administration. In states where the law is administered by commission or board, the state agency usually has exclusive jurisdiction over the determination of facts with appeals to the courts limited to questions of law. In a few states, however, the courts can consider the issues anew.

Second Injury and Special Provisions

A second injury to an employee who has already sustained an injury—such as the loss of a limb, for example—may cause that employee to be totally disabled, and thus be eligible for total disability. All compensation laws, except those of Louisiana and the Federal Civil Employee Act, contain provisions regarding payment of compensation in such cases. Some of these provisions limit the amount of claim to the last injury sustained, regardless of the actual disability resulting from the combined injuries.

Under the more advanced laws, however, which exist in forty states, three territories, the District of Columbia, and the Federal Longshoremen's Act, payment is made for the actual disability resulting from the combined injuries. If the payments for the combined injuries were charged to the employer, handicapped workers would have increasing difficulties in securing employment. Hence, these jurisdictions have established "second injury funds." Where states have second injury funds, the employer is liable only for the compensation resulting from the second injury. The employee, however, receives payments based on the disability resulting from combined injuries. The difference is paid out of the state or territory's second injury fund, which is financed either by special appropriations or by assessments or taxes on employers or insurance carriers.

Because workmen's compensation is almost wholly a state matter, jurisdictional problems arise when an employee employed by a company located in one state is injured in another. In some cases, he is covered by the state where he is hired, in some where he is injured, and in many cases the jurisdiction is in doubt.

All the compensation laws cover legally employed minors. Seventeen of the acts provide additional compensation in the case of injury to minors who are illegally employed. In twenty-five states, Alaska, the District of Columbia, Hawaii, and under the Longshoremen's and Harbor Workers' Act, compensation is paid to minors illegally employed on the same basis as if they were legally employed. Seven states fail to cover minors illegally employed.

Of the seventeen laws which provide extra compensation in the case of injury to illegally employed minors, thirteen require the payment of double compensation in such cases, while one other law, that of Wisconsin, requires double or treble compensation, depending upon the type of violation. Compensation in Wisconsin is doubled in case of minors injured while employed in violation of the work-permit provisions of the child-labor law, and it is tripled in case of minors employed in violation of the minimum-age provisions or in an occupation for which the Industrial Commission has ordered that no permit shall be issued. In Illinois and Missouri, compensation is increased by 50 per cent, and in Pennsylvania by 10 per cent.

Financing

In 1956 the Social Security Administration estimated that \$525 million were paid on workmen's compensation benefits. Unlike the situation for the other social insurances, the funds for workmen's compensation are not provided for by specific taxes levied upon employer or employee

or both. There is no central fund from which compensation is payable to eligible injured workers. Rather, the employee's compensation claim is against his employer. In order to assure that the employer will have the wherewithal to make compensation payments, he is required to obtain insurance or to give proof of his ability to carry his own risk—that is, to self-insure. In nearly all jurisdictions, workers make no direct contributions to costs.

Analysis of Workmen's Compensation

A careful scholar of the social insurances has pointed out that workmen's compensation "bears the scars of the fact that it was a pioneer social insurance program. . . . Restricted coverage, limitation of risks recognized . . . dollar limitations to amounts payable, the presence of private insurance techniques and self-insurance—all stem from the early and understandable desire to proceed with caution and to hedge the program with various safeguards designed to secure public acceptance and to allay misgivings on the part of the employers."²

In the same vein is the comment of another authority who has worked in the workmen's compensation field for over two decades: "If, in the field of our mechanical contrivances, the same adherence to old models had prevailed as that which is found in respect to social arrangements, we should now be driving around in ox carts."³

Undoubtedly, workmen's compensation is inadequate in the three essentials of coverage, benefits, and administration. The large numbers of excluded categories, the failure to make provision for all occupational diseases, and the number of laws which are elective reduce the coverage of this legislation.

The complicated benefit system is very inadequate. In 1940, no jurisdiction provided benefits that averaged 50 per cent of wages lost for all classes of injuries. Since then, benefits, despite increases in most states, have steadily fallen behind increases in the cost of living.

Administration of workmen's compensation is perhaps the weakest phase of workmen's compensation. There is tremendous variation from state to state in the caliber of administration. Some states make an excellent effort to see that claims are promptly paid, that workers know their rights, and that final reports are received from insurance companies on

² Eveline M. Burns, *The American Social Security System* (Boston: Houghton Mifflin Co., 1949), p. 186.

³ Marshall Dawson, *The Development of Workmen's Compensation Claims Administration in the United States and Canada*. (International Association of Accident Boards and Commissions, 1951), p. 39.

benefits paid, how benefits were computed, and the nature of the injury for which benefits were paid.

Unfortunately, good administration of workmen's compensation is apparently relatively uncommon. Many states collect little pertinent information. The majority of employed workers apparently know little of their rights, and state administrators make little effort to correct this lack of information. Only a few states make a real effort to find out how promptly workers are paid, how much is paid for medical expenses, how adequate benefits are to take the place of lost wages, and for what purpose benefits are paid.

Along with poor administration, inordinately expensive administration is the rule rather than the exception. Some authorities estimate that as much as 40 per cent of the costs of workmen's compensation goes for administration.⁴ The President's Commission on the Health Needs of the Nation, composed of sixteen outstanding medical, civic, and industrial leaders, commented: "Excessive litigation is common with both legal and medical chicanery."⁵

Methods of financing are both questionable and geared to keep benefits at a minimum. Self-insured companies and poorly run insurance companies have become insolvent and thus denied injured workers' benefits. Since both insurance companies and employers have an interest in keeping costs at a minimum, and since most workers are not too well informed of their rights, the pressure to keep benefits down, to avoid expansion of coverage, and to pay the very least allowable in compensation is dominant in most state legislatures and most state administrative agencies. Moreover, since the individual is usually left to obtain his own benefits, he of necessity becomes involved in litigation and lawyers' fees, if he is to protect his rights, or else faces loss of benefits because of ignorance of his rights. In other instances, benefits have been held up by attempts of insurance companies to transfer doubtful jurisdictional cases to the state jurisdiction which pays the least benefit.

On the other hand, sometimes compensation costs can get out of line because of excessive liberality of state administrations. This is alleged to have occurred in New York, where exaggerated claims have apparently received liberal compensation, partially as a result of effective representation by lawyers and unions, but where at the same time the unrepresented worker is in no position to take similar advantage of procedures, and the record for prompt utilization of modern medical care and rehabilitation

⁴ Herman and Anne Somers, "Workmen's Compensation: Unfilled Promise," *Industrial and Labor Relations Review*, Vol. VII (October, 1953), pp. 32-42.

⁵ Quoted by *Ibid.*, p. 39.

FIGURE 49

WORK INJURIES AND THE EXTENT OF COMPENSATION REMAIN CRITICAL ISSUES

SOURCE: *Labor's Economic Review* (AFL-CIO), February, 1957.

techniques is at best dubious.⁶ The authors' personal experiences indicate a similar situation in Connecticut and Massachusetts.

Accident Prevention and Rehabilitation

The prime objective of workmen's compensation legislation is, of course, the payment of benefits to those injured on the job. If, however, the maximum social purpose of workmen's compensation is to be achieved, it should encourage safe working practices which will prevent injuries before they occur; and it must provide the means to rehabilitate workers who have been injured so that they can, insofar as possible, become self-supporting once more.

There can be no doubt that workmen's compensation has encouraged safe working practices. The insurance rate which is charged to the employer is determined by the accident frequency and severity record. Substantial savings in insurance costs accrue to the employer whose plant safety record is of a high quality. The larger insurance companies in the compensation field provide safety counseling as part of their services. In addition, most states provide for safety inspections. Many employers have found that they can regain all of their costs spent on safety by reduced costs in compensation through fewer work injuries.

Unfortunately, however, relatively few plants have adequate safety programs. Estimates of the Bureau of Labor Statistics indicate that only one third of all workers are subject to planned, organized safety efforts. Consequently, American industry had in 1952 more than 2 million disabling injuries with an estimated direct economic loss of 206 million

⁶ Joseph S. Keiper, *Forces that Spiral Workmen's Compensation Costs* (New York: Commerce and Industry Association of New York, Inc., 1953).

man-days of work—enough to provide full-time employment for 687,000 persons for 1 year. Data since 1952 reflect the same trend (Fig. 49).

Although accident prevention is obviously socially more desirable than compensation after injury, most workmen's compensation administrators either have no authority to enforce safety regulations or no funds to spend on safety, or no interest in the subject. In some states, industrial health and safety programs and law enforcement are assigned to one department, workmen's compensation administration to another. "As a rule, the safety or factory inspection agency receives no routine reports of work injuries from employers. Hence, many state factory inspectors routinely cover their assigned territories without regard to—and often not knowing—whether or not they are spending their time in establishments where they could do the most good."⁷

Workmen's compensation legislation has been less a stimulation to rehabilitation than to accident prevention. Only about one third of the state laws contain specific provisions for tiding permanently impaired workers over a period of vocational rehabilitation. A few states, for example Arizona, provide that the administrative tribunal may make any award necessary to rehabilitate the injured worker. A few other states make liberal provisions for the same purpose, although not unlimited ones. Usually, however, the awards for rehabilitation are meager and insufficient to accomplish the task.

In two thirds of the states, including such highly industrialized states as Illinois, Pennsylvania, Indiana, and California, the permanently disabled worker must look to a private or public agency for assistance in rehabilitation. In some states, disabled workers are referred to such agencies as a matter of routine. In many, however, it is up to the disabled worker—or a charitable agency to which he has gone for financial assistance—to make such a referral. Having "compensated" the worker for a disabling injury, the state under these circumstances feels no obligation to return him to useful employment.

TEMPORARY DISABILITY INSURANCE

Temporary disability insurance is designed to compensate workers for time lost from work as a result of a nonoccupational illness or accident. In contrast to permanent and total disability legislation as discussed in Chapter 19, temporary disability legislation limits payments to a fixed period, usually from 10 to 26 weeks. And whereas workmen's compensation pays compensation for occupational injuries and illnesses, temporary

⁷ Max D. Kossoris, "Workmen's Compensation in the United States, I—An Appraisal," *Monthly Labor Review*, Vol. LXXVI (April, 1953), p. 366.

disability insurance is designed to provide compensation for injuries and illnesses contracted off from and not related to the job.

Development of Disability Insurance

In 1942, Rhode Island enacted the first disability insurance law. At that time Rhode Island imposed a tax of 1.5 per cent of payroll on employees, in addition to taxes upon employers, for support of unemployment compensation. This employee payroll tax was reduced to 0.5 per cent in 1942, but an additional 1 per cent employee payroll tax on the first \$3,000 of wages was imposed to support the disability legislation.

In 1946, Congress amended the Social Security Act to permit states which had levied taxes upon employees in support of unemployment compensation to use an amount equal to the total employee contributions to the unemployment trust fund for cash disability payments. On the basis of this legislation, which affected nine states, Rhode Island discontinued its 0.5 per cent tax on employees for unemployment compensation but continued its 1 per cent disability tax, and California and New Jersey enacted a disability insurance law wholly separate and distinct from unemployment compensation.

Analysis of State Disability Legislation

The four state disability insurance laws are compared in Table 43 (pp. 648-49). These laws are of three distinct kinds. The oldest of the state laws, that of Rhode Island, provides for a single state fund which collects all contributions and pays all benefits. No private plans can be substituted for the Rhode Island state fund, nor is any cognizance taken of any benefits that may be provided under a private plan. Rhode Island is also unique in that under certain limited circumstances, employees may receive both disability and workmen's compensation benefits. Rhode Island pays the least maximum benefit, \$30 per week. Like the other states, Rhode Island provides for a 7-day waiting period before benefits are paid, but whereas the other three states require a waiting period before each disability is compensated, Rhode Island requires only one waiting period each benefit year.

The laws of Rhode Island, California, and New Jersey are administered by the state unemployment compensation agencies in these states. The three disability laws follow the unemployment compensation system in regard to eligibility requirements. Temporary disability is defined in general to mean physical or mental illness incapacitating a person so that he cannot perform his work. By administering the disability legislation with existing unemployment compensation agencies, the records of unem-

ployment insurance can be utilized, and administrative savings effected.

In California and New Jersey, some of the administrative advantages of record and administrative centralization are lost by permitting companies to insure privately. In these two states, workers are automatically covered by the state plan unless the employer takes affirmative action to institute a private plan. Both California and New Jersey attempt to safeguard the state funds against adverse selection of risks, for example, by requiring that private plans do not discriminate against any class of risks, such as plants which hire a large portion of women, since women generally lose more time because of illness than men. The extent to which the state funds have been successful in forcing private companies to share the best risks is not clear as yet. On the other hand, it is clear that private companies obtain business generally by paying higher weekly benefits than those paid by the state funds, the maximum of which is \$40 in California and \$35 in New Jersey.

The New York law differs radically from the other three in that it is wholly divorced from unemployment compensation and in that there is no limitation upon rights to establish private plans. New York's law also features the least maximum benefit duration, 20 weeks. New York's law is administered by the state Workmen's Compensation Commission, and the administration of the law is modeled upon the state workmen's compensation administration. It is interesting to note that the Commerce and Industry Association of New York, Inc., a principal advocate of placing disability insurance under the administration of the state Workmen's Compensation Commission, has sponsored a study that is very critical of the administration of workmen's compensation in New York.⁸

The failure of temporary disability legislation to spread beyond the four state and railroad jurisdictions is not a result of a political deadlock on the merits of providing protection against nonoccupational disabilities. Rather it is a result of a conflict over methods, particularly the following: (1) the degree of federal versus state participation; (2) private insurance versus public financing; and (3) administrative tie-up with unemployment compensation versus administrative tie-up with workmen's compensation. Until these issues are resolved or compromised, temporary disability legislation is not likely to spread. In the state of Washington, for example, a legislative-passed law was nullified in a state referendum because opponents of any law were joined by opponents of the type of law. Since this occurred in 1950, no new law has been enacted by any state.

In the meantime private plans are attempting to fill the void. Union

⁸ Keiper, *op. cit.*

TABLE 43

COMPARATIVE ANALYSIS OF STATE DISABILITY LEGISLATION AS OF JANUARY 1, 1958

	NEW YORK	NEW JERSEY	CALIFORNIA	RHODE ISLAND
Type of Law	Competitive between state fund and private plans—employer must choose.	Competitive between state fund and private plans—former automatic if latter not elected by employer and majority of employees.	Competitive between state fund and private plans—former automatic if latter not elected by employer or with his consent, and by employee.	Monopolistic state fund—no private plans allowed in substitution.
Approach Used	Employer required to provide benefits—like workmen's compensation, but employees share cost.	Tax supported state fund provides benefits—like unemployment compensation, but private plans may be substituted.	Tax supported state fund provides benefits—like unemployment compensation, but voluntary (private) plans may be substituted.	Tax supported state fund provides benefits—like unemployment compensation.
Types of Private Plans	Insured and self-insured plans equating or exceeding statutory requirements, and continuation of certain other existing plans.	Insured and self-insured plans equating or exceeding state fund standards, and continuation of certain other existing plans.	Insured and self-insured plans exceeding state fund standards.	None.
Limitations upon Right to Establish Private Plans	None	None if private plan does not exclude any class of employees, otherwise like California.	Must not result in substantial "adverse selection" against state fund.	.....
Benefit Payments Begin	July 1, 1950.	January 1, 1949.	December 1, 1946.	April 1, 1943.
Federal Unemployment Trust Fund Monies Used	None available for disability benefits.	\$50 million	\$104 million authorized.	\$28 million.
Employee Contributions	$\frac{1}{2}$ per cent of first \$60 of weekly wages.	$\frac{1}{2}$ per cent of first \$3,000 of annual wages	1 per cent of first \$3,000 of annual wages	1 per cent of first \$3,000 of annual wages.
Employer Contributions Required	Balance of cost, if any	$\frac{1}{2}$ per cent of first \$3,000 of annual wages if in state plan, balance of cost, if any, if in private plan.	None	None
Experience Rating of Contributions to State Fund	The net effect of competitive premium rates will be substantially the same as the results of experience rating.	Yes, employer's share only.	No	No.
Employers Covered	Employees of four or more on each of 30 days in one calendar year	Employers of four or more in 20 weeks—same as unemployment compensation.	Employers of one or more and \$100 payroll in any quarter—same as unemployment compensation	Employers of four or more in 20 weeks—same as unemployment compensation
Employees Excluded	Farm laborers, day students, casual employees, employees of certain nonprofit organizations, railroad and government employees, and certain others.	Farm laborers, domestic servants, students, employees of certain nonprofit organizations, railroad and government employees, and certain others.	Farm laborers, domestic servants, employees of certain nonprofit organizations, railroad and government employees, and certain others.	Farm laborers, domestic servants, and employees of nonprofit organizations, railroad and government employees, and certain others

TABLE 43—Continued
COMPARATIVE ANALYSIS OF STATE DISABILITY LEGISLATION AS OF JANUARY 1, 1938—Continued

	NEW YORK	NEW JERSEY	CALIFORNIA	RHODE ISLAND
Religious Exemptions	Christian Scientists, etc may apply for exemption	Christian Scientists, etc may apply for exemption	None, but certification of disability by practitioner is acceptable	Christian Scientists, etc may apply for exemption
How Benefits Are Computed	$\frac{1}{2}$ of average weekly wage, subject to maximum	Similar to unemployment compensation—depends upon wages in base year.	Same as unemployment compensation—depends upon wages in base year.	Same as unemployment compensation—depends upon wages in base year.
Statutory Eligibility Requirements	Generally four consecutive weeks of covered employment, not necessarily with current employer.	Earnings in base year of twenty-five times weekly benefit rate in covered employment	Earnings in base year of \$300 in covered employment, but at least thirty times weekly benefit rate if 75 per cent earned in single calendar quarter.	Earnings in base year of \$100 in covered employment.
Minimum Weekly Benefits	\$10, or average weekly wage, whichever is less.	\$10.	\$10.	\$10.
Maximum Weekly Benefits in State Plan	\$45.	\$35.	\$40 plus hospital confinement benefit of \$10 per day up to 12 days.	\$30.
Maximum Duration	20 weeks.	26 weeks.	26 weeks	26 weeks.
Waiting Period	7 days for each disability.	7 days for each disability.	7 days for each disability.	7 days for each benefit year.
Maternity Benefits	No	No.	No.	Yes.
Duplication of Benefits Workmen's Compensation	No	No	No.	Yes, up to a combined benefit 85 per cent of average weekly wage.
Effect of Continued Pay from Employer during Disability	None if voluntarily provided by employer, otherwise generally disqualifies for benefits.	Reduces benefits if total of benefits and sick pay would otherwise exceed regular wages.	Reduces benefits by amount of sick pay received.	None—benefits and sick pay may be received simultaneously.
Benefits for Disabled Unemployment Financed by	Assessments on insurance companies, self-insurers, state insurance fund and existing plans, without limit. Revolving fund set up by tax of 0.01 per cent of wages both on employers and employees from 1/1/50 to 6/30/50.	State plan, which may assess private plans for pro rata share of excess of cost over interest on \$50 million of initial fund Assessment limited to 0.02 per cent of taxable wages.	State plan, which may assess private plans for pro rata share of excess of cost over interest on \$132 million of initial fund Assessment limited to 0.03 per cent of taxable wages	State plan.

NOTE. The legislature of the state of Washington also passed a disability benefits law, similar in many ways to the California law. In November, 1930, the bill was submitted to a referendum and defeated.

SOURCE. U S Bureau of Employment Security

welfare plans often include temporary disability provisions. Nevertheless, coverage of this type of protection is proceeding slowly, and since 1953 has not expanded as fast as the labor force. As of mid-1957, approximately 27 million wage and salaried workers had some sort of temporary disability insurance, and 20 per cent of these worked in the states having such legislation.⁹

HEALTH INSURANCE

Workmen's compensation and disability insurance, except insofar as the former pays medical costs, are insurances directed primarily against loss of income.¹⁰ Health insurance goes further. It attempts to provide prepaid medical care to the population, regardless of the effect of illness upon income and regardless of whether the person in need of medical care is the family breadwinner. The most comprehensive health insurance programs are operating in Great Britain and New Zealand. Neither the federal government nor any of the states has adopted a health insurance program.

Despite the absence of health insurance in the American scene, the need for prepaid medical care has long been recognized. A majority of American families cannot afford a serious illness. Medical outlays have been estimated at approximately 4 per cent of the national income. Moreover, "An unlucky sixth of our people, . . . pays in one year half the total sickness bills paid by everybody in that year. No one can tell in advance whether his family, during the next year, will be in the lucky half, the moderately lucky third, or the unlucky sixth."¹¹

Sickness is also likely to fall heavily upon the lowest-income groups because they are most exposed to illness by reason of poor housing, poor dietary habits, and ignorance of proper preventive measures. Even a family with a substantial income is dealt a staggering financial blow by an illness which requires extensive surgical or specialist treatment, hospitalization, and nursing or convalescent care. Such an illness can wipe out the life savings of the \$10,000-income family or throw it deep into debt. No wonder that sickness is a primary cause for applications for charity among lower-income groups.

Another result of the high costs of medical care is that thousands of persons do without needed medical assistance, harming not only themselves but society as well; for persons in need of medical care are often

⁹ Data from U.S. Bureau of Employment Security.

¹⁰ Two assistance programs, disability assistance in Wisconsin and aid to the blind under a federal grant-in-aid program, are also in existence.

¹¹ Michael Davis, *Health Security and the American Public* (1936), p. 3.

either disease carriers or less efficient employees. They are likely to become unemployable and a burden to society.

Issues in Health Insurance

As a result of the growing interest in protection against the costs of illness, a number of bills have been introduced in Congress during the last 10 years for the purpose of establishing a comprehensive health program similar in scope to the Old Age, Survivors and Disability Insurance system. None of these bills passed, largely as a result of the opposition of the American Medical Association and of various other groups. Nor is it likely that any such legislation will be enacted in the near future. Consequently, it would appear more worth while to review some of the issues involved in health insurance rather than to discuss any proposed legislation.

Costs and Financing. Proposals for health insurance generally provide for financing by means of payroll tax on both employer and employee. The estimated costs, of course, determine the amount of the tax. The so-called Truman health bill, introduced during the Truman administration by supporters of the former President, proposed a 3 per cent payroll tax, evenly divided between employers and employees, and a 2.25 per cent income tax on self-employed persons. This tax was based upon an assumed cost of approximately \$6.5 billion at 1948 prices. An estimate of economists critical of a health insurance program came to approximately twice this amount.¹²

The disparity of cost estimates are based primarily upon the assumptions regarding the use of medical facilities. It would certainly appear that a figure of \$6.5 billion is far too low since it assumes that medical and hospital facilities will be utilized under health insurance at about present demands. If the experience in Great Britain shows anything, it is that after the inception of a health insurance program, the demand for medical services increases tremendously. Indeed, this is what should be expected because one of the purposes of health insurance is to insure that health services are available to those who need it regardless of income. Persons who for income reasons would not seek medical aid under the present system would presumably be under no such restraint under a health insurance program. Those who favor a compulsory health insurance program modeled upon OASDI would do well to estimate nearer the maximum, since an underestimation of costs can only serve to confuse and disillusion the supporters of health insurance.

¹² Rita R. Campbell and W. G. Campbell, "Compulsory Health Insurance: The Economic Issues," *Quarterly Journal of Economics*, Vol. LXVI (February, 1952), p. 16.

Adequacy of Facilities. Because health insurance increases the demand for medical and hospital facilities and services, the question has been raised whether the United States is prepared to embark on a comprehensive health insurance program. In view of the experience of Great Britain, it would seem that a preparatory program of training medical personnel and of building hospital and other facilities would be preferable to starting a health insurance program without such preparation. Certain parts of the country, particularly rural areas and the South in general, are short both of medical facilities and personnel. If health insurance increases the demand for medical services considerably, other areas will likewise find that their supply of facilities and personnel is insufficient. The consequence is likely to be a deterioration of service. Consequently, it would appear much the sounder approach to build up facilities and personnel and then gradually insure the population instead of attempting to begin a comprehensive program in one step.

Coverage and Eligibility. Coverage of the Truman proposal was similar to that of the OASDI. Eligibility was based upon a certain amount of earnings over a given period, presumably also closely modeled on the OASDI program.

A health insurance program, which is truly social insurance, and which therefore is paid for by those whom it benefits and their employers, will, of course, not cover every one, and the poorest and least likely to be employable are the most likely to be excluded. Charity, or a form of public assistance, is the only way to care for the most unfortunate who cannot pay their own way. This, however, is no more an argument against health insurance for the socially insurable than it is against old age and survivors insurance. By the same token, one might oppose any form of private insurance!

Can Health Insurance Be Afforded? The question of whether the United States can afford health insurance is basically one of alternative economic choices. It has been claimed, for example, that a public housing program would be a more effective attack on health problems because it would get at some of the causes of such diseases as tuberculosis which are closely correlated with inadequate housing. A housing program which would root out all slums might well be far more expensive and would not get at all diseases and sicknesses. Moreover, those who oppose health insurance, by and large, also oppose public housing, and private housing companies have never been able to build profitably for the low-income groups who live in the badly substandard dwellings.

Actually the real question is whether the people of the United States wish to commit a sizable proportion of their income—perhaps as much as

6 per cent of the first \$5,000 earned from workers and a similar amount from employers—toward security against illness. If that decision can be made, then careful study of already known facts can determine the best way to attack the problem. In the meantime, it is pertinent to note that tremendous sums are already being spent for welfare benefits, public and private, and that health insurance would be largely a net addition thereto.

Effect on Voluntary Programs. In the next section of this chapter we shall discuss the multitude of important voluntary sickness insurance programs which have been developed in this country. What effect would a national health insurance program have on these existing ones? Most proposals provide for various methods of integrating existing programs. In addition, a number of bills have been introduced in Congress to give federal grants-in-aid to voluntary programs, and President Eisenhower would reinsure voluntary programs in order to broaden their coverage and their services. It may be that eventually American health insurance will take the form of a combination of private and government insurance. This would be similar to the disability insurance programs of New Jersey and California. In any case, if health insurance is to operate successfully in the United States, it must consider the experience of voluntary plans and be fully integrated with existing plans for workmen's compensation and disability insurance. It is only one step further to integrate also with voluntary health plans which meet carefully spelled-out standards. But the costly mistakes of workmen's compensation must be avoided, or we shall have another program that fails to fulfill its purpose.

HEALTH AND WELFARE PLANS

While the opposition to a comprehensive federal health insurance program has stymied insurance protection against illness on a national level, privately organized protection against sickness and death has gained by leaps and bounds. These programs began soon after the turn of the century, when large insurance companies began to write life insurance on a group basis. Before World War II, group life policies had already gained widespread acceptance by employers without being pushed by union demands. By 1957, more than \$117 billion worth of group life insurance covering approximately 33 million employees and 2 million dependents was in effect.¹³

A second type of group insurance, accidental death or dismemberment, is not as popular as group life. It is payable for loss of life, eyesight, hands, or feet through an accident. By 1957, more than 17 million per-

¹³ Data from Life Insurance Association of America.

sons were covered by this type of group insurance, worth in principal sum almost \$52 billion.

A third type of insurance, group temporary disability, has already been discussed in connection with the four state laws.

Even more widespread than the types of insurance already mentioned, however, is the prepaid method of meeting the costs of medical care. Hospitalization insurance has become so popular in the two decades since it was introduced that by the end of 1957, seven out of ten Americans—over 123 million people—will have such protection. Other types of medical-care insurance have also become increasingly important, though not so prevalent as hospitalization benefits. At the end of 1957, it is estimated that surgical expense contracts will cover 109 million persons and regular medical expense contracts 74 million.¹⁴ The latter two got started later than hospital expense insurance. Their growth since the end of World War II, however, has been at a faster rate, as can be seen from Figure 50, a fact that has been interpreted to mean that they are in the process of catching up.

Information on the type of insuring organization for illness expense protection is contained in Table 44. It shows that commercial insurance companies account for the major part of hospital and surgical expense coverage, while nonprofit Blue Shield plans are in the lead for regular medical expense coverage. Table 44 also makes clear that the coverage figures include not only the employed or primarily insured person but also his dependents—usually the wife and minor children. Breakdowns of the totals in the table show that well over half of the protection furnished applies to dependents.

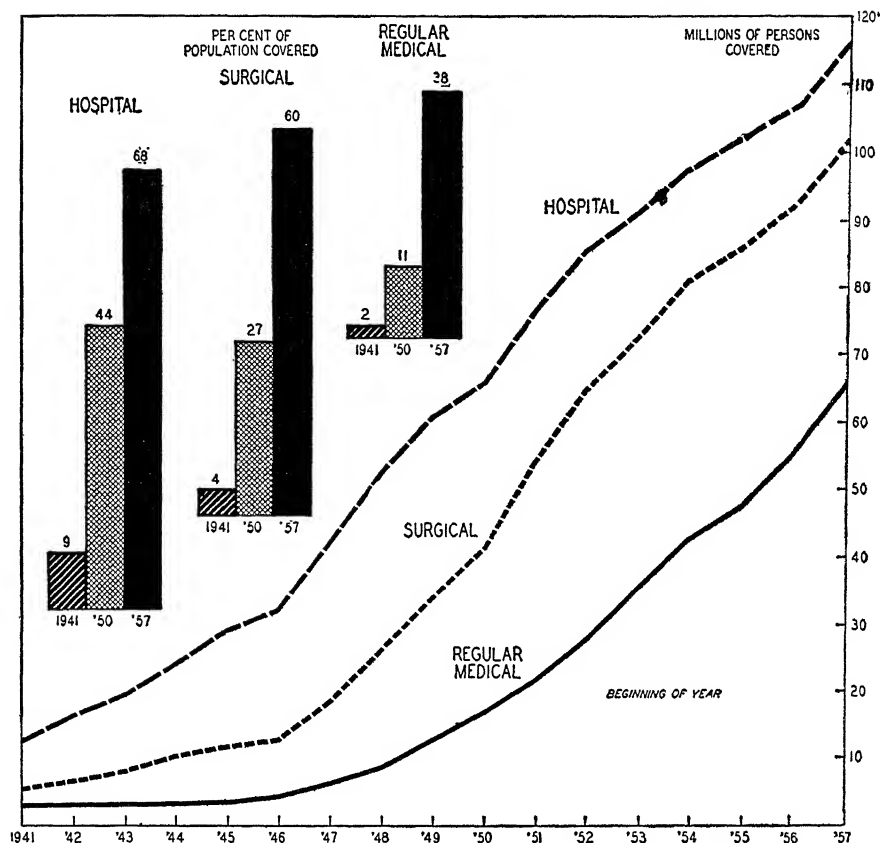
The newest and broadest form of protection—major medical expense insurance—is not shown in either the figure or table. It is designed to help absorb the cost of serious or catastrophe illness. Usually major medical plans provided for a deductible amount which is equivalent to the benefits paid under a basic hospitalization-surgical-medical insurance plan, plus often a “corridor” of from \$100 to \$300. After bills up to that amount have been incurred, the major medical plan takes over and pays for 75 per cent of all medical bills connected with that illness or injury up to a maximum of \$5,000, and sometimes \$10,000. The co-insurance feature, that is, the requirement that 25 per cent of the major expenses be met by the individual, tends to reduce both improper claims and exorbitant medical charges.

The popularity of major medical plans is attested to by their growth.

¹⁴ Estimates by the Health Insurance Institute quoted in the *Journal of Commerce*, September 26, 1957.

FIGURE 50

INSURANCE AGAINST MEDICAL-CARE COSTS COVERS EVER MORE PERSONS



Chart, courtesy National Industrial Conference Board, Inc.

SOURCES Health Insurance Council, Census Bureau.

By the end of 1957, major medical insurance covered 13 million persons, as compared with 8.9 million at the end of 1956, 5.2 million in 1955, and 2.2 million in 1954. This represents an increase in coverage of 500 per cent in only 3 years.

A trend is already underway toward merging basic health insurance plans with major medical. Such so-called "comprehensives" provide payments for illnesses and hospitalization on a deductible and co-insurance basis without allotting specific amounts for each type of coverage. For example, hospital expenses would be paid in full after a deductible of \$50, and all other expenses paid in full with similar deductibles up to a specified amount, at which time the remainder of the medical expense bills

TABLE 44

DISTRIBUTION OF HOSPITAL, SURGICAL, AND REGULAR MEDICAL EXPENSE
PROTECTION BY TYPE OF INSURING ORGANIZATION, DECEMBER 31, 1956
(000 Omitted)

TYPE OF INSURING ORGANIZATION	NUMBER OF PEOPLE PROTECTED		
	Hospital Expense	Surgical Expense	Regular Medical Expense
<i>Insurance companies:</i>			
Group insurance	45,211	45,906	25,177
Individual-policy insurance	27,629	23,074	6,789
Unadjusted Total	72,840	68,980	31,966
Deduction for duplication in persons with insurance-company protection	6,581	5,984	2,210
Net Total for Insurance Companies	66,259	62,996	29,756
<i>Blue Cross, Blue Shield, and Medical So- ciety plans.....</i>	53,162	42,570	33,907
<i>Independent plans:</i>			
Industrial plans.....	3,051	3,016	2,731
Community plans.	631	1,011	1,014
Consumer-sponsored plans.....	93	99	95
Private group clinics	479	483	536
College health plans	400	300	900
Total for Independent Plans....	4,654	4,909	5,276
<i>Deduction for Duplication:</i>			
Persons protected by more than one type of insuring organization. . . .	8,126	9,150	4,048
Net Total, Persons Protected	115,949	101,325	64,891
Primary coverage.	49,253	41,937	27,660
Dependents' coverage	66,696	59,388	37,231

SOURCE The Health Insurance Council, 11th Annual Survey, "Keeping Pace with Public Needs," preliminary report, 1957.

would be paid up to \$5,000 on a co-insurance basis with the individual who is ill being responsible for 25 per cent of the cost.

President Eisenhower sponsored a bill in Congress to permit Blue Cross-Blue Shield plans to re-insure against heavy losses in the hope that they would then in turn make major medical or comprehensive plans available to the public. Although this bill was defeated, such plans have been spreading rapidly, as noted.

The most complete prepaid health programs are New York City's Health Insurance Plan (HIP) and the Kaiser Permanente plan which Henry Kaiser, the industrialist, inaugurated on the West Coast. HIP has

over 2,000 doctors participating on a part- or full-time basis; and in January, 1957, it had approximately one million subscribers in metropolitan New York. Originally organized for New York City's employees, it now takes in other groups, including union subscribers. HIP offers a very complete medical and surgical program to its subscribers who are divided into thirty groups in the metropolitan area. Each subscriber may join any group in his county, and he may change groups if he so desires. When ill, a subscriber is attended by one of the physicians caring for the group. Although subscribers appear most content with this arrangement (if growth of the organization is the criterion), local medical societies have opposed HIP on the grounds that the patient does not have "free choice" of a doctor, a statement which appears to ignore the fact that no one joins HIP against his will, or is prevented, even if a member, from using other facilities.

Unions and Welfare Funds

Unions have been active in the welfare and benefit field since the latter part of the nineteenth century. At that time several of the railroad unions were organized as fraternal and beneficial societies. The life insurance programs of these organizations are still operating.

In 1893 the Journeymen Barbers' Union developed the first union sick-benefit plan adopted by an affiliate of the American Federation of Labor. By 1903, twenty-eight AFL unions had followed suit. Death-benefit programs were much more numerous, and unemployment-benefit plans were also sponsored by a few unions. All these programs were union financed and union administered. They did not develop in collective bargaining nor did they directly concern labor-management relations.¹⁵

The unions affiliated with the American Federation of Labor thought of their social welfare programs as adequate substitutes for governmental social insurance. Indeed, one of the basic reasons why social security was adopted at a later date in the United States than in other democratic countries was that organized labor in America joined forces with employers in opposing it.

During the 1920's, many employers in the United States also adopted extensive welfare and pension programs, thus giving group insurance and pension plans their first big spurt. This was part of the so-called "American plan" whereby employer groups hoped that the need

¹⁵ The literature on union welfare programs during this period is quite extensive. See, e.g., J.B. Kennedy, *Beneficiary Features of American Trade Unions* (Baltimore: Johns Hopkins Press, 1908), United States Bureau of Labor Statistics, Bulletin No. 465, *Beneficial Activities of American Trade Unions* (1928); and M. W. Latimer, *Trade Union Pension Systems* (New York: Industrial Relations Counselors, 1932).

for unions could be avoided by establishing management-directed welfare and fair employment standards. Realizing that the AFL program of union-sponsored welfare plans was inadequate, Gompers tacitly approved employer welfare programs but sought to bolster the AFL's position by the establishment of the Union Labor Life Insurance Company, a mutual concern run by AFL officials which sold group benefits to unions (as well as to other groups). The great depression of the 1930's, however, proved the inadequacy of most trade-union and many employer social-welfare programs and forced the Federation to abandon its long opposition to government social security and minimum wage legislation.

The new unions formed during the 1930's made few, if any, attempts to develop welfare programs of their own prior to World War II. Moreover, the tendency of the older unions was often to curtail the operation of their benefit plans in view of their proved actuarial inadequacy. The two exceptions were the continued promotion of group accident and sickness and group life insurance by the Amalgamated Association of Street, Electric Railway and Motor Coach Employees, the first union to secure the incorporation of an employer-financed sick-benefit plan in a collective agreement; and the changeover of an unemployment insurance fund, first inaugurated in 1923 through collective bargaining, to a social-benefit fund by the Chicago Joint Board of the Amalgamated Clothing Workers.

The World War II wage stabilization program brought about a radical change in union welfare concepts. Whereas in 1942, the U.S. Bureau of Labor Statistics could report that "there are relatively few formal sickness-insurance plans in effect at the present time and reference to them occurs very rarely in union agreements," that agency found that "more than 3 million workers . . . were covered by some type of health, welfare, and/or retirement benefit plan under collective bargaining agreements by mid-1948."¹⁶ Unions concentrated their efforts during World War II where the law permitted. The National War Labor Board declined as a rule to order the institution of a welfare plan, but it would approve such plans if voluntarily arrived at. With employers anxious to hold their manpower, and with the costs to the employer of a welfare program deductible as an expense against taxes, agreements for welfare programs were relatively easily secured during the war.

Nor did the war end the union push for benefits. In 1946, John L. Lewis won his health and welfare fund for the miners; during the next 2 years benefit plans were adopted through collective bargaining in the

¹⁶ E. K. Rowe and A. Weiss, "Benefit Plans under Collective Bargaining," *Monthly Labor Review*, Vol. LXVII (1948), p. 229.

steel, automobile, rubber, and other industries. Meanwhile, benefits similar to those won by unions have been rapidly adopted throughout industry for office, professional, and various nonunion groups.

The typical bargained welfare package of 1957-58 included group insurance up to 85 per cent of the employee's salary with a \$2,000-\$3,500 minimum; disability and sickness benefits of \$35 for 13-26 weeks with a 1 week waiting period for sickness but no waiting period for injuries; hospital room and board (semiprivate accommodations) up to 120 days, plus certain "extras," for example, laboratory X-ray examinations, drugs and medicines, and use of operating rooms, either under a Blue Cross contract or an insurance company program; surgical expenses, to a \$200-300 maximum for injuries and illnesses not compensable pursuant to workmen's compensation legislation; and at least partial coverage of medical charges for hospitalized injury or illness not covered either by the surgical or hospital benefits or by workmen's compensation legislation. Dependent coverage on hospitalization, surgical, and in-hospital medical had become increasingly common, and it generally covered maternity cases.

A few plans go far beyond the typical. Those of the International Ladies Garment Workers' Union include elaborate diagnostic clinics which specialize in preventive medicine; and the United Mine Workers' program includes considerable medical research, the construction of a number of hospitals, and a vast rehabilitation program.

When health and welfare plans were first introduced, the trend was for joint employee-employer contributions. Since then, union pressure has pushed more and more plans into a solely employer-financed system. A National Industrial Conference Board Study summarized in Figure 51 shows how the same 187 companies responded to this union pressure—about 40 per cent paid the whole cost in 1956 as compared with 21 per cent in 1949.

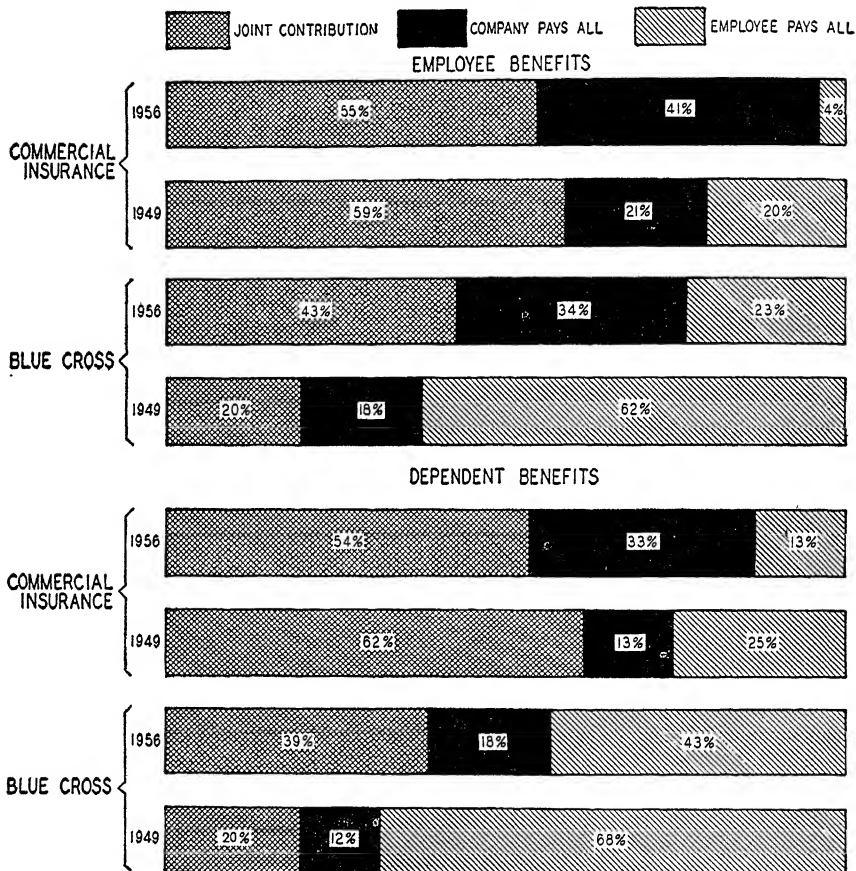
Analysis of Health and Welfare Plans

Are health and welfare and the various group insurance programs adequate protection against loss of income and/or savings because of injuries and illness? What are some of the social and economic effects of the increasingly important role of unions in providing for the medical, hospital, and related disability care of union members?

First, it should be emphasized that health, welfare, and insurance programs provide a very important and practical service. This fact need not be labored to anyone who has received disability payments from an insurance company or who has seen his hospital and doctor bills mate-

FIGURE 51

MORE AND MORE THE EMPLOYER PAYS THE FULL COST
A Study of 187 Health and Welfare Plans, 1949 and 1956



SOURCE: National Industrial Conference Board, Inc.

rially reduced by Blue Cross and Blue Shield memberships. To millions of Americans, the economic ravages of illness and injury have been materially reduced by coverage of health, welfare, and insurance plans.

On the other hand, the typical health, welfare, and insurance plan fails in several respects to provide security against major disasters resulting from sickness and injury. For example, Associated Hospital Service, New York City's Blue Cross Plan, does not provide benefits for mental or nervous disorders, communicable diseases requiring isolation or quarantine, or pulmonary tuberculosis—all of which can involve most serious and most costly confinements.

In cases of chronic illnesses or injuries, health, welfare, and insurance plans are a great help in meeting initial expenses; but once the period of coverage ends, the patient is financially on his own. The typical health, welfare, and insurance plan is devised to care for the routine accident or illness: a broken leg, or an appendectomy, or in a happier vein, a maternity confinement. Costs over and above that covered by welfare plans in such cases do not usually represent a serious financial strain on the employed worker.

If, however, one is injured in an automobile accident so seriously as to require day-night nursing assistance for many weeks, or one contracts tuberculosis, or if one's child requires long, costly hospital confinement for a bone disease, the costs for treatment may exceed \$5,000, but the most liberal basic welfare plan will not usually cover more than \$700, or less than 15 per cent of the bill. This is why the catastrophe or major medical plans are spreading so rapidly. Without doubt, the rise of major medical insurance fills one of the big gaps in private protection against illness or injury.

Even with major medical insurance added to the typical health, welfare, and insurance plan, there remain major objections to primary reliance on such plans for economic security against sickness and accident. One such objection is the fact that coverage of such plans is still incomplete. Almost one half of the population remains without protection. Moreover, those who are not covered include those least able financially to withstand the costs of hospital and medical care—the unorganized, the unemployed, the casually employed, and other marginal and low-income population groups. The middle-income classes and the unionized workers are undoubtedly the most completely covered by health, welfare, and insurance plans.

Closely allied to this point is the fact that most welfare plans are contingent upon employment at a particular company or membership in a particular union. This fact is not as serious with respect to welfare plans as it is with respect to pension plans. Despite some variation in benefits, one welfare plan is not likely to differ too greatly from another in the same area or industry. Except for fulfilling the requirements of a waiting period, which is usually less than a year, no loss of accrued welfare benefits is likely to result from changing employment. A health and welfare plan provides a *current* benefit, not like a pension plan which provides benefits which will be received in the future.

It is not likely, therefore, that health and welfare plans affect labor turnover to the same extent as do pension plans. Nevertheless, loss of employment or union membership, which means loss of financial protec-

tion in case of death, sickness, or accident, can be a severe penalty. Even though the employee obtains other employment, the new job may not provide the benefits of the old. The existence of a health, welfare, and insurance plan is, therefore, an additional reason why people stay in jobs or remain union members.

Employers have been conscious of this influence of welfare plans since they were introduced in the 1920's as part of a program aimed at reducing turnover. Now unions are looking at welfare plans in the same light. This accounts for a good deal of union insistence that employers use a plan which the unions have developed and which the unions control.

Many unions are today expecting the welfare plans which they control to assure the loyalty of their members in case that loyalty is either challenged by a rival organization or threatened by prolonged unemployment. Officials of these unions reason that the desire to maintain the protection of the welfare plan will be a decisive factor on such occasions. In support of this contention, it can be noted that for many years the railroad brotherhoods have found that their insurance program was an effective means of maintaining the loyalty of their members.

The desire to hold their members is as natural for union leaders as is the desire of employers to hold their employees. Unfortunately, welfare plans have also been used as instruments of coercion and racketeering. When loss of union membership means loss of union-controlled benefits, the average worker is likely to give additional pause before joining an attempt to unseat a dictatorial or otherwise unsatisfactory union leadership.

As for racketeering, we have already noted earlier in the book that the revelations of the various Congressional and state investigations, particularly the McClellan Committee of 1957-58, have revealed abuses of such magnitude that there can be no doubt of the need for drastic regulation and reform. To the extent that the assets of welfare funds have been siphoned off to private gain, they are not serving their purpose. There seems to be no reason why this should be tolerated, and it is likely that increasing and more drastic regulation will end these abuses before too many years have passed.

Welfare Funds and Governmental Health and Compensation Insurance

We may conclude that health, welfare, and insurance programs contribute substantially to the search for security against the economic losses of illness and injury, but that such programs fall substantially short of

providing adequate security in many situations. What then is likely to be their effect on governmental programs in this field?

Although the great majority of union leaders support a national health insurance program, their ardor has been materially lessened by the development of union programs. The reader will recall that the lack of strong labor support was an important factor in the late adoption of a federal old-age insurance program. With the medical profession and the Eisenhower administration so strongly opposed to any governmental health insurance, and with labor unions already taking care of their members, it seems clear that union health and welfare programs will retard the development of any comprehensive health insurance program. This is also likely to mean a continued legislative stalemate in the field of temporary disability insurance and little interest in relating workmen's compensation to the other programs for caring for the sick and injured.

QUESTIONS FOR DISCUSSION

1. Discuss some of the shortcomings of workmen's compensation laws. What is the difference between workmen's compensation and disability insurance?
2. Do you think the federal government should adopt a federal health program? Support your answer.
3. What role can union health and welfare plans play in a national health program?

SUGGESTIONS FOR FURTHER READING

FOX, HARLAND. *Trends in Company Group Insurance Plans*, Studies in Personnel Policy No. 159. New York, National Industrial Conference Board, Inc., 1957.

Compares all types of group insurance benefits in 187 companies in 1949 and in 1956.

SERBEIN, OSCAR N., JR. *Paying for Medical Care in the United States*. New York: Columbia University Press, 1953.

A good analysis and evaluation of all the methods employed in meeting the costs of medical care.

SOMERS, H. W., and SOMERS, ANNE R. *Workmen's Compensation*. New York: John Wiley & Sons, Inc., 1954.

An authoritative study of workmen's compensation legislation and problems.

PART VII

Government Control of Labor Relations

Chapter 22

UNION TACTICS AND THE COURTS

Public policy is determined in two general ways: by common law and by statutory law. Common law is based upon the customs of the land as reflected in the accumulated decisions of the judiciary. Statutory law results from enactments of the Congress and state legislatures. Statutes usually represent departures from the common law or changes in customs which the elected representatives of the people deem desirable. The history of public policy toward labor relations in the United States has been marked in large measure by statutory enactments aimed first at overturning judicial interpretations of the common law and later at revising judicial interpretations of legislative enactments. Prior to 1940, the apparent desire of the Congress was to liberalize these judicial interpretations; since 1940, much Congressional action in the labor field has been designed to overturn judicial interpretations which the legislators have regarded as too favorable to labor.¹

LABOR AND THE COURTS IN EARLY AMERICA

The Conspiracy Cases

Common law dates back to medieval England when employer-employee relationships were truly that of master and servant. In that era, the serf was bound to the land, and the rules of guilds governed the artisans. When a shortage of labor occurred, as for example, after the Black Death plague in the fourteenth century, laws were passed so that one employer who enticed another's workers away by offers of higher wages would be heavily punished. The legal enforcement machinery was in the hands of the employing class, and both law and the judiciary were decidedly unfriendly to any efforts of workers to raise their standards above what was deemed to be their "correct station in life."

¹ For a more complete discussion of some of these issues, see C. O. Gregory, *Labor and the Law* (New York: W. W. Norton & Co., Inc., 1946); and H. A. Millis and R. E. Montgomery, *Organized Labor* (New York: McGraw-Hill Book Co., Inc., 1945), pp. 486-685.

The rise of modern factory production found the law still concerned with preserving an archaic "master-servant" relationship, while workers were turning to organization to correct the ills suffered under emerging capitalism. Following their notions of ethics and economics, English courts (and later Parliament) outlawed labor combinations which exerted pressure to increase wages or to secure the closed shop as a means toward that end. British courts and statesmen considered such combinations among workmen to be inimicable to the public interest because they interfered with the free working of market forces. In the famous Philadelphia Cordwainers case of 1806,² and in numerous others during the next 30 years, American state courts adopted this same viewpoint and held that concerted action by combinations of workmen to better their wages and working conditions represented an illegal conspiracy against the public and employers. On the other hand, the Supreme Court of Pennsylvania found that a combination of employers to lower wages would also be unlawful, but a combination of employers to resist the attempts of workers combining to raise wages would be lawful.³

Rulings of this and similar nature caused considerable unrest among working groups in early America. Judges were sometimes hung in effigy on street corners by mobs of workmen who showed their resentment at being classed as criminals because of union activity. Nevertheless, until 1842, the courts continued to move in the direction of completely outlawing all union activity. Then, in the case of *Commonwealth v. Hunt*,⁴ the Supreme Court of Massachusetts decided that a strike in support of a closed shop was not, per se, illegal, and that unless it could also be shown that the workers' objectives were bad, the conspiracy doctrine did not apply. Although the conspiracy doctrine continued to be utilized occasionally for some years to break up strikes, the decision in *Commonwealth v. Hunt* dealt it a blow from which it never recovered.

The "Motive" Test

After the decision in *Commonwealth v. Hunt*, the courts tended to judge the legality of union activity on the basis of "motive" and "intent." Because the motives or intentions of working men engaging in union activity are mixed and difficult to ascertain, determinations of the legality of union activity in terms of its possible objectives are subject to as many interpretations as there are judges. One judge, for example, might find

² Cited in J. R. Commons *et al.*, *Documentary History of American Industrial Society* (Cleveland: A. H. Clark Co., 1910-11), Vol. III, pp. 59-236.

³ *Commonwealth ex rel. Chew v. Carlisle*, 36 Pa. N.P. (1821).

⁴ *Commonwealth v. Hunt*, 4 Metcalf 111 (1842).

that all strikes are malicious because the object is to bring economic pressure upon the employer in violation of his property rights; on the other hand, an equally learned judge might decide that the purpose of the strike was merely to improve the economic standards of the working people and that any harm which might accrue to the employer was incidental and unintentional. The difficulties and impasses which resulted from the attempts to probe into motive and intent led many courts to abandon the attempt to determine cases on that basis and, instead, to place their emphasis on the means used.

The "Means" Test

Even the means test, however, did not take the uncertainty out of judicial determination of the legality of concerted union activity. While the difference between lawful means and unlawful means may seem clear in principle—combination and persuasion are lawful, while violence, coercion, force, and intimidation are unlawful—the difficulty comes in applying these principles to actual practice. Who is to say where persuasion ends and intimidation begins? Is the employee who is faced by a picket line persuaded or coerced into not going to work? Faced by the difficult task of making such decisions, courts have frequently—consciously or unconsciously—looked to the objective of union activity in order to decide whether the means were lawful. Justice Holmes is said to have observed: "The lawfulness of threats depends on what you threaten." In the same way, courts have sometimes been influenced by the purpose of union action in determining whether to declare the means adopted unlawful.

Restraint of Trade

A further theory utilized by courts in labor cases in these early years was the doctrine of restraint of trade. This doctrine assumed much greater importance in judicial decisions with the subsequent enactment of the Sherman Antitrust Act, which will be discussed below. The doctrine of restraint of trade, however, also existed in common law. In general, the common-law doctrine was based on the premise that everyone should have equal access to the market and that when two or more persons combined to block access to the market and thereby inflicted injury upon the public, a conspiracy in restraint of trade existed. All restraints, whether inspired by labor or industry, were not considered illegal per se. The legality of such restraints was held to depend upon their "reasonableness," which was determined by the courts by weighing the extent of

coercion exercised, if any, and the effect of the restraint on the volume of business and access to the market.

THE INJUNCTION, ANTITRUST LAWS, AND THE RIGHT TO ORGANIZE

The Injunction

The injunction is a legal technique developed in equity courts to provide relief against continuing injury where recovery in the form of monetary damages does not suffice. Upon a showing that "irreparable damage" might occur to the party requesting the relief unless certain acts of the defendant are stopped, the judge may issue an order forbidding the defendant from doing such acts. If the defendant disobeys the court order, he may be fined or imprisoned for contempt of court.

The application of injunctions to labor disputes developed rapidly after the Debs case of 1895.⁵ In that case, Eugene Debs, leader of the Pullman strike,⁶ was enjoined by an order obtained by the United States government from continuing a boycott of Pullman cars which, the government alleged, interfered with interstate commerce and the transportation of mail. Although injunctions had been used in labor disputes prior to this time, this case focused nation-wide attention on the injunction technique as a weapon against union organizational activities. Thereafter, the use of the injunction became relatively widespread.

The effectiveness of the injunction was based upon the speed with which it could be secured and the manner in which it could be applied. An employer could go into court and secure what is known as an *ex parte* injunction by alleging that grave and irreparable damage would occur to his business or property if the injunction were not granted. Such an *ex parte* injunction could be obtained by the employer or his attorney appearing before a single judge without notice to the union and giving the judge only his side of the story. If the judge granted the request for an injunction—as he usually did—he would issue an order of the court forbidding the union officers and members from doing a long list of prohibited acts. Such an order would completely tie up union organizational activities, and at the same time leave the employer free to discharge union members and otherwise act to destroy union organization in his plant before the union could be heard in court. By the time the case was brought to a hearing to determine whether the injunction should be dissolved or

⁵ *In re Debs*, 158 U.S. 654 (1895).

⁶ This strike involved the abortive attempt to establish industrial unionism on the railroads.

made permanent, the employer could often whip the union. Moreover, if union officials violated any part of the injunction, they could be held in contempt of court and fined or jailed by the court, without trial by jury. This was true whether or not the injunction was made permanent.

English courts granted such injunctions only if there was evidence of actual or threatened damage to physical property—buildings, machinery, and so forth. American courts, however, went much further and issued injunctions where there was evidence only of damage, threatened or actual, to the employer's business. Judges tended to fall into the habit of assuming that practically any form of union activity directed against the employer was enjoinable since it threatened "irreparable damage" to valuable interests of the employer. As there was no statutory law to speak of stating what union activity was lawful, and what was unlawful, concerted action by unions was taken under an ever-present threat of possible injunction.

The language of the court order containing the injunction was frequently drawn by attorneys for employers and signed by the court. Sometimes the injunction was directed against named individuals; sometimes against the world in general.

Some idea of the manner in which an injunction could tie up union activities may be gained by studying the following paragraphs from the injunction granted against the unions in the 1922 nation-wide strike of the railway shopmen. The order forbade workers from

inducing or attempting to induce by the use of threats, violent or abusive language, opprobrious epithets, physical violence or threats thereof, intimidations, display of numbers or force, jeers, entreaties, argument, persuasion, rewards, or otherwise, any person or persons to abandon the employment of said railway companies or any of them, or to refrain from entering such employment . . .

. . . in any manner by letters, printed or other circulars, telegrams, telephones, word of mouth, oral persuasion, or suggestion, or through interviews to be published in newspapers or otherwise in any manner whatsoever, encourage, direct or command any person whether a member of any or either of said labor organizations or associations defendants herein, or otherwise, to abandon the employment of said railway companies, or any of them, or to refrain from entering the service of said railway companies or either of them;

[Directed against the officers of the unions] issuing any instructions, requests, public statements or suggestions in any way to any defendant herein or to any official or members of any said labor organizations constituting the said Federated Shop Crafts, or to any official or member of any system federation thereof with reference to their conduct or the acts they shall perform subsequent to the abandonment of the employment of said railway companies by the members of the said Federated Shop Crafts, or for the purpose of or to induce any such officials or members or any other persons whomsoever to do or say anything for the purpose

or intended or calculated to cause any employee of said railway companies, or any of them, to abandon the employment thereof, or to cause any persons to refrain from entering the employment thereof to perform duties in aid of the movement and transportation of passengers and property in interstate commerce and the carriage of the mails;

... using, causing, or consenting to the use of any of the funds or monies of said labor organizations in aid of or to promote or encourage the doing of any of the matters or things hereinbefore complained of.⁷

The sweeping scope of this injunction is further indicated by the fact that a barber who put a sign in his shop stating that "scabs" would not be served was held in contempt of court!

The Antitrust Laws

In 1890, Congress passed the Sherman Antitrust Act in an attempt to stem large-scale business concentration. Historians disagree as to whether the framers of this law intended it to apply to union activities as well as to business restraints. Whatever the intention of the framers, however, the Supreme Court in 1908, in the famous *Danbury Hatters* case,⁸ ruled that a nation-wide union boycott against a manufacturing firm was "a combination 'in restraint of trade or commerce' among the several states," in the sense in which those words are used in the [Sherman] Act." The Supreme Court, moreover, found that the union and its members were liable for the triple damages provided as penalties in the Sherman Act.

The decision of the Supreme Court in the *Danbury Hatters* and subsequent similar cases intensified the drive of the American Federation of Labor for a law which would remove union activities from the purview of the Sherman Act and which would also limit the right of the judiciary to grant injunctions in labor cases. The AFL thought that it had won both these objectives when Congress enacted the Clayton Act in 1914. Section 6 of the Clayton Act stated that "the labor of a human being is not a commodity or article of commerce" and that union organizations are not to be construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws. Section 20 of the Clayton Act further provided that union activities were not enjoined if they were carried on by peaceful means for a lawful purpose and in conjunction with a controversy between an employer and employee.

Unfortunately for labor, the Clayton Act was poorly drawn and therefore subject to conflicting interpretations. In what appears to be a negation of Congressional intent, the Supreme Court held the Clayton

⁷ *U.S. v. Railway Employees' Dept.*, 238 Fed. 479 (1922).

⁸ *Loewe v. Lawlor*, 208 U.S. 274 (1908).

Act to be virtually a reaffirmation of previous law.⁹ Under this interpretation, secondary boycotts, strikes for any “wrongful” purposes, and even picketing, were enjoined.

Legal Impediments to Organization

The common law imposed major impediments in the path of union organization. It stressed the sanctity of private contracts, and ingenious employers were able to turn this principle into an effective weapon against union organization. This was done through the device of so-called “yellow-dog” contracts. These are contracts which employers require workers to sign stating that as a condition of employment the worker agrees not to join a union. The phrase “yellow dog” was applied by unionists at an early date to workers who signed such contracts, and the contracts have been known by that appellation ever since.

In practice, employers made no real attempt to enforce such contracts against the individual workers who signed them. The importance of the contracts was that if they were legal, then attempts by union organizers to compel workers who had signed such contracts to join a union was a deliberate attempt to cause a breach of such contracts, and such action could be enjoined by the courts. Unionists maintained that because workers had no choice but to sign such agreements, they were without force or effect. The majority of state courts rejected this view, holding instead that mere inequality of bargaining power did not preclude enforcement of contracts. The New York courts, however, accepted labor’s point of view.

In 1917 the United States Supreme Court passed on the enforceability of such contracts. By that year, organized labor had already secured the passage of the Clayton Act and had high hopes that the Supreme Court would accept its view of the coercive nature of the yellow-dog contracts. The Supreme Court, however, completely supported the enforceability of yellow-dog contracts.¹⁰ It ruled that a court of equity could issue an injunction restraining attempts to organize employees bound by contracts with their employer not to join a labor union. As a result of this ruling, the use of the yellow-dog contract spread rapidly. Organized labor found the combination of the injunctions, the antitrust laws, and the yellow-dog contract to be an almost insurmountable legal bar.

Still another impediment to organization was the freedom of an employer under the common law to refuse employment to workers because of union activities. Employers thus could maintain what might be

⁹ *American Steel Foundries v. Tri-City Trades Council*, 257 U.S. 184 (1921).

¹⁰ *Hitchman Coal and Coke Co. v. Mitchell*, 245 U.S. 229 (1917).

called an "antiunion closed shop." In furtherance of antiunion activities, employers were, in the absence of legislation, free to engage in blacklisting of union members and to utilize labor spies to ferret out union sympathizers. The common law did provide that a worker may not be hounded or libeled in order to prevent him from securing or maintaining employment, but this protection proved of little value because the employer also had the right to advise other employers that he discharged a man because of his union or "radical" sympathies or activities.

More than one half of the states now have laws which outlaw the blacklist, and six states require employers, upon demand, to give discharged employees a truthful statement of the reasons for discharge.¹¹ These state laws against blacklisting, however, have not been easily enforced, although in at least one case such a law was used by workers to secure an injunction against the use of the blacklist.¹² It was almost impossible to prevent one employer from telling another over the telephone that Jones, Smith, and Brown were "radical unionists," so that when these three applied for employment to the second employer, they were refused a job on the grounds that "no vacancies were available." It was not until the passage of the National Labor Relations Act in 1935 that effective protection against blacklisting was finally achieved.

Protection of the Right to Organize

Because of the antagonistic attitude of the courts, labor unions attempted at an early date to secure legislative modification of judicial designs. Between 1890 and 1914, no less than fourteen states enacted legislation making it a misdemeanor or otherwise unlawful for employers (a) to exact yellow-dog contracts from their employees; and (b) to interfere with the right of the employees to join or otherwise belong to a legitimate union. In addition, in 1898, Congress passed the Erdman Act which contains similar provisions for the benefit of operating employees of the railroads.

The courts, however, declined to view with favor this legislation which contained the principles of the Wagner Act 40 years before that law was conceived. The Supreme Court found that both the state laws and the pertinent section of the Erdman Act were unconstitutional because the Fifth and Fourteenth Amendments to the Constitution guarantee freedom of contract as a property right.¹³ According to the courts, an

¹¹ Millis and Montgomery, *op. cit.*, p. 594.

¹² E. E. Witte, *The Government in Labor Disputes* (New York: McGraw-Hill Book Co., Inc., 1932), pp. 212-20.

¹³ *Coppage v. Kansas*, 236 U.S. 1 (1915), which nullified the state laws; and *Adair v. United States*, 208 U.S. 161 (1908), which nullified Section 10 of the Erdman Act.

employer had a constitutional right to request his employees to sign yellow-dog contracts and to enforce such contracts, and also to discharge his employees because of union activities. In short, the courts held that furthering union activities or even preventing interference therewith was not a sufficient promotion of the general welfare to permit interference with sanctity of contracts, not even if they were yellow-dog contracts. Needless to say, these decisions, coupled with the courts pro-industry interpretations of the enforceability of yellow-dog contracts, and the application of the Sherman Act to union activities, caused unionists to take an extremely jaundiced view of the judiciary, as well as to redouble their efforts to curb judicial interference in labor-management matters.

STRIKES, BOYCOTTS, AND PICKETING AND THE COURTS BEFORE 1932

As has been pointed out in the discussion thus far, the courts (in years prior to 1932) tended to interpret both the common law and the statutory law in a manner unfavorable to the development of organized labor. The practical effect of such an antagonistic attitude on the part of the judiciary can best be appreciated by examining its impact on the major weapons which a union can utilize to achieve its objectives—the strike, boycott, and picketing. From the point of view of federal law, it is convenient to consider judicial interpretation prior to 1932 and after 1932, since in that year the Congress enacted the Norris-LaGuardia Act which drastically altered the power of federal courts to intervene in labor disputes.

Strikes

Workers on strike do not ordinarily regard themselves as having terminated their employment relationship. They have left their work temporarily, and in concert, in order to secure more favorable terms of employment. But they regard themselves as having a vested or property right in their jobs. The courts, however, have not recognized this right until very recently—and then only in a modified form. On the whole, courts have been more ready to accept ideas concerning employer property rights than employee property rights.

As has been pointed out at the beginning of this chapter, after the courts abandoned the theory of conspiracy, they continued to regulate union conduct by looking into the motives or intent of union conduct. In the case of strikes, this involved an analysis of the purpose or objective of the walkout.

Courts have frequently enjoined the continuance of a strike where the purpose of the strike was to force the employer to co-operate in committing an illegal act. They have also taken similar action in cases where, after weighing the damage done by a strike against the objective sought to be accomplished, they have concluded the strike was "unjustified." This is, of course, a highly subjective criterion, but it has been widely applied in a variety of circumstances. For example, prior to 1932, judges frequently found sympathetic strikes unlawful. These are strikes by one group of workers in support of another, such as a strike of plumbers out of sympathy for striking gravediggers. Judges have found no possible justification for inflicting loss on the employers of plumbers merely because of a dispute between gravediggers and their employers. Likewise, despite the path-breaking case of *Commonwealth v. Hunt* decided in 1842, in which the Massachusetts court rejected the conspiracy doctrine in connection with strikes for the closed shop, many, if not the majority of, state courts have condemned strikes to obtain a closed shop. The reason is that the closed shop is regarded as monopolistic and attaching a condition to the right of a worker to obtain employment.

On the other hand, in the case of strikes against technological change and jurisdictional strikes, courts have usually adopted a "hands-off" attitude. Although most courts have indicated that they regard strikes aimed at preventing technological advance as harmful to society, they have recognized the problem that such progress often creates for workers and have usually not interfered, in the absence of legislative enactment, with the attempts of unions to retard technological change. Likewise in the case of jurisdictional strikes—which are contests between unions over which group of workers shall perform a specified piece of work—most courts have declined to enjoin such strikes *per se*. They have regarded jurisdictional strikes as a matter for regulation by the legislative branch of the government.

Lockouts

A lockout is an act by an employer or employers locking out employees from their jobs in an effort to compel them to accede to the terms of employment desired by management. In contrast to the strike where numbers and relationships may under the conspiracy doctrine make a difference, a lockout under common law may be practiced without legal restriction, whether by a single employer or by employers in combination. What one employer may do, all may do. There is, however, one exception to this common-law principle, and that is that a lockout in violation of a collective agreement may be enjoined. On the other hand, an employer

who is a member of an association and obligated thereby to co-operate with his fellow employers may be sued if he fails to co-operate in the lockout activities.

Boycotts

Economics pressure by unions can be exerted in other ways than by strikes. One of the most familiar of labor's weapons has always been the boycott. In a certain sense, all strikes are boycotts. For when workers are on strike, they are "boycotting" their employer's employment and urging all others to do likewise. Such a strike would thus qualify as a "primary" boycott—primary because the strikers are exerting pressure directly on the employer on whom they are making their demands.

Generally, however, strikes are not considered as coming within the meaning of boycotts. In public discussions, the term boycott is used almost exclusively to mean an organized refusal to deal with someone in order to induce him to change some practice which he follows. Such a boycott may be in the form of a "we-do-not-patronize" list or in other forms of pressure designed to prevent sales of particular products; or it may be a refusal to handle certain goods.

Examples of such pressures are readily found in everyday union activity. Recently, the United Automobile Workers resorted to a nationwide boycott of Kohler products in its bitter battle against this manufacturer of plumbing wares. In another case, this same union asked its members not to use fishing tackle manufactured by a firm which allegedly had locked out members of the United Steelworkers. Union building-trades men have usually refused to handle materials manufactured under nonunion conditions.

Boycotts of these types are not as simple as strikes because they can involve pressure on third parties. For example, if the United Automobile Workers picketed a store which was selling fishing tackle purchased from the aforementioned firm, it would be engaging in a "secondary boycott"—that is, it would be applying pressure on a third party in order to aid the Steelworkers' fight against the manufacturer directly involved in the dispute.

Before 1932, a majority of American courts held secondary boycotts unlawful *per se*—"as if it were in a separate category of tort liability."¹⁴ Other courts, however, recognized that labor had an interest in maintaining standards and therefore had a right to engage in boycotts for this purpose. For example, some courts have upheld labor's right to boycott

¹⁴ Gregory, *op. cit.*, p. 122.

nonunion products on the grounds that the distribution of goods produced under nonunion conditions will depress standards won by the union.

The Taft-Hartley Act, enacted in 1947, outlawed secondary boycotts in industries subject to the Act, apparently on the ground that the legitimate objectives of labor could be served by other measures and that secondary boycotts unduly widened the area of industrial disputes by interrupting the operations of employers only remotely connected with the chief cause of the labor dispute.¹⁵

Picketing before the Norris-LaGuardia Act

One of the most controversial questions of public policy in the field of labor relations today concerns the extent to which picketing by labor unions should be regulated. A companion question upon which conflicting views are found in the field of labor law involves the extent to which such limitations on the right to picket are constitutionally permissible.

Picketing is a familiar form of pressure utilized by unions which has become an indispensable adjunct of the strike. Picketing usually involves the patrolling of a struck establishment by one or more persons bearing signs or placards stating that the workers are on strike or that the employer is unfair to organized labor, or words to similar effect. The average worker will not pass a picket line. This is based partly on the fear of social ostracism, partly on the feeling that unless he supports this group on strike, they may not support him some day when his union is out on the street, partly on fear of physical violence, sometimes because of fear of sanctions contained in the constitution of his own union. Whatever the motivations, it is clear that the picket line is a most effective weapon. In our highly unionized economy, a picket line, manned even by a small group in a large company, can completely paralyze a plant or establishment because other union men who work in the plant, or deliver its supplies, will not cross the picket line.

Picketing may be thought of in two ways. It is a form of expression, letting the public and labor supporters know that a controversy exists and giving labor's side of that controversy. It is also a form of pressure intended to dissuade persons from patronizing or entering a place of business.

At first the courts took the view that picketing per se was illegal. Later they grudgingly conceded that picketing was legal as long as it was peacefully conducted and did not bar entrance to and exit from the plant, and as long as it did not obstruct traffic on a public thoroughfare. But while the courts conceded the legality of picketing, they also severely

¹⁵ See Chapter 23 for a discussion of the boycott under the Taft-Hartley Act.

regulated it, often limiting the number of pickets permitted and generally outlawing "stranger picketing"—that is, picketing by persons not employees of the plant. The attitude of the courts on stranger picketing was conditioned by their belief that workers had no interest in a labor controversy unless they were employees of the plant itself, a theory which ignores the relation of labor conditions in one plant with that of another.

Those who believed in labor's right to picket freely did not generally support picketing which prevented entrance and exit into a plant, or picketing which obstructed ordinary commerce on a public thoroughfare. They took the view, however, that picketing was a form of expression and hence, if peacefully conducted, was protected by the First Amendment, as are other forms of communication. That viewpoint, however, was almost unanimously rejected by the courts prior to 1932. Indeed, the tendency right up to the passage of the Norris-LaGuardia Act was to limit rather than to expand the right of labor to picket in support of its interests.

THE NORRIS-LAGUARDIA ACT

In 1932, when the membership of the American Federation of Labor was the lowest in 20 years, the AFL achieved its greatest legislative triumph to date. After almost 50 years of sustained effort, the AFL succeeded in making the federal judiciary "neutral" in labor disputes. The law which accomplished this fact was the Norris-LaGuardia Anti-injunction Act, passed by a Democratic controlled House of Representatives, a Republican Senate, and signed by the then Republican President, Herbert Hoover.

The Norris-LaGuardia Act commences with a statement of public policy which affirms the right of workers to engage in collective bargaining through unions of their own choosing. Yellow-dog contracts are declared to be against this public policy, and the federal courts are instructed not to enforce such contracts. Then Section 4 of the Act establishes the following rules for the courts:

No court of the United States shall have jurisdiction to issue any restraining order or temporary or permanent injunction in any case involving or growing out of any labor dispute to prohibit any person or persons participating or interested in such dispute (as these terms are herein defined) from doing, whether singly or in concert, any of the following acts:

a) Ceasing or refusing to perform any work or to remain in any relation of employment; . . .

e) Giving publicity to the existence of, or the facts involved in, any labor

dispute, whether by advertising, speaking, patrolling, or by any other method not involving fraud or violence.

f) Assembling peaceably to act or to organize to act in promotion of their interests in a labor dispute;

g) Advising or notifying any person of an intention to do any of the acts heretofore specified;

h) Agreeing with other persons to do or not to do any of the acts heretofore specified; and

i) Advising, urging, or otherwise causing or inducing without fraud or violence the acts heretofore specified. . . .

In addition, the Act requires employers to enter the court with "clean hands" before requesting an injunction—that is, employers must exert every reasonable effort to settle a dispute through collective bargaining, mediation, and voluntary arbitration, if procedure for the latter methods are available, before requesting judicial interference. And besides thus virtually making it impossible for an employer to secure an injunction in a labor dispute unless fraud or violence are involved, the Norris-LaGuardia Act defines "labor dispute" in the broadest possible manner so as to preclude judicial constructions, such as occurred in the Clayton Act, which whittled away the effect of the latter law.

The Norris-LaGuardia Act has since been supplemented by approximately twenty state laws which, with some variations, are modeled after it.

The Norris-LaGuardia Act and the Courts

With a single piece of legislation, Congress thus repealed a century of judicial interpretation and created "laissez faire, or economic free enterprise, for organized labor as well as for big business."¹⁶ Henceforth, the courts were not to interfere with strikes, boycotts, and picketing which were conducted peacefully and otherwise within the law. Moreover, by defining "labor dispute" in a broad fashion, Congress ensured labor's right to engage in sympathy strikes, secondary boycotts, stranger picketing, and other activities where nonemployees of a concern come to the aid of the concern's employees in labor disputes directly or by applying pressure upon third parties.

Despite the clarity of its language, the Norris-LaGuardia Act might either have been misconstrued or declared unconstitutional by the courts if the attitude of the courts had not altered fundamentally on labor matters by the time litigation arising out of the Act reached the Supreme Court. Between the dates when the Act was passed by Congress and reviewed by the highest court, the New Deal of Franklin D. Roosevelt had

¹⁶ Gregory, *op. cit.*, p. 192.

intervened, and the thinking of the highest court had been altered. As a result, the Norris-LaGuardia and similar state laws were interpreted as intended by their framers to preclude injunctive relief in peacefully conducted labor disputes.

Reversal of Sherman Act Decisions

The combined effect of the Norris-LaGuardia Act and the liberalized view of labor disputes which the Supreme Court took after 1937 resulted in a revision of precedents on the application of the Sherman Antitrust Act to labor and on the courts' attitude toward picketing and boycotts. In the *Apex* case,¹⁷ decided in 1940, the Supreme Court ruled unions were not guilty of violating the Sherman Act, even if strikes or boycotts prevented shipments of goods into commerce, so long as "it was not shown that the restrictions on the shipments had operated to restrain commercial competition in some substantial way"—in other words, if the restrictions on commerce were incidental to the objects of unionization or securing better terms and conditions of employment.

Although the Supreme Court denied it was overruling past decisions, it is quite clear that the *Apex* case did just that. Then in the *Hutcheson* case,¹⁸ the Supreme Court carried its new views one step further. This case arose out of a nation-wide boycott instituted by the Carpenters' Union against Anheuser-Busch brewing products because that company gave work in a jurisdictional dispute to members of the Machinists' Union rather than the Carpenters' Union. The Supreme Court not only found that this nation-wide boycott in support of a jurisdictional dispute was not a violation of the Sherman Act but it declared that the Norris-LaGuardia Act had, by implication, overruled the Court's previous interpretations of the Clayton Act. Therefore, the Clayton Act, which purported to give labor immunity under the antitrust laws, was now to be interpreted in the light of original Congressional intent. Thus, labor combination was almost completely outside the purview of the Sherman law.

The extended immunity granted labor from the antitrust laws and the injunction by the Norris-LaGuardia Act and the *Hutcheson* decision was followed to its logical conclusions in subsequent decisions. The American Federation of Musicians was permitted to maintain a nation-wide boycott of recordings by refusing to have its members make such recordings;¹⁹ a Hod Carriers' Union was permitted to prevent usage with-

¹⁷ *Apex Hosiery Company v. Leader*, 310 U.S. 469 (1940).

¹⁸ *United States v. Hutcheson*, 312 U.S. 219 (1941).

¹⁹ *U.S. v. American Federation of Musicians*, 318 U.S. 741 (1943).

in its jurisdiction of a low-cost cement-mixing machine except under conditions which made the use of such machines financially impossible;²⁰ building-trades unions were permitted to boycott materials because they were produced by companies where rival unions were bargaining agents or because they were prefabricated instead of put together on the job;²¹ unions were allowed to picket or boycott a company solely on the grounds that it dealt with a rival union and despite the fact that if the employer recognized the picketing or boycotting union, he would violate the National Labor Relations (Wagner) Act;²² and, finally, a union could with immunity have its members refuse to work with an employer ready and willing to deal with the union, because of a grudge against the employer even though the effect was to force the employer out of business.²³

Despite these decisions, unions did not receive complete immunity from either the Sherman Antitrust Law or the injunctive process. In the *Allen Bradley* case,²⁴ the Supreme Court ruled that a union could not conspire with employers to refuse to work on materials produced outside of New York City and thereby give New York City manufacturers a local monopoly. If, however, the union engaged in identical conduct on its own, and without the connivance of employers, presumably the new interpretations of the Clayton Act would remove such conduct from the proscriptions of the Sherman Act.

The use of the injunction against unions during this period resulted from union racial discrimination. The first cases arose out of attempts of certain railway unions to use their position as bargaining agents to drive Negroes, who were not admitted to membership, out of jobs.²⁵ These cases are best understood after our discussion of the Wagner Act in Chapter 23. The second of these race discrimination cases in which an injunction figured resulted from the refusal of the AFL Boilermakers' and Shipbuilders' Union to admit Negroes on an equal basis. Since this union had closed-shop contracts, it meant that Negro and other nonwhite workers had to accept second-class "Jim Crow" status in the union or look elsewhere for work. The Supreme Court of California upheld the claim of the nonwhite workers that this situation represented an illegal monopoly on the part of the union and issued an injunction requiring the

²⁰ *U.S. v. International Hod Carriers' Union*, 313 U.S. 539 (1941).

²¹ *U.S. v. Building & Construction Trades Council*, 313 U.S. 539 (1941); *U.S. v. Brotherhood of Carpenters*, 313 U.S. 539 (1941).

²² *NLRB v. Star Publishing Co.*, 97 F (2d) 465 (1938).

²³ *Hunt v. Crumback*, 325 U.S. 821 (1945).

²⁴ *Allen Bradley v. Local No. 3, IBEW*, 325 U.S. 797 (1945).

²⁵ *Steele v. Louisville & N. R. Co.*, 323 U.S. 194 (1944); and *Tunstall v. Brotherhood of Locomotive Firemen*, 323 U.S. 210 (1944).

union either to admit workers without discrimination or to void its closed shop insofar as nonwhite workers were concerned.²⁶

PICKETING AND FREE SPEECH

Right up to the passage of the Norris-LaGuardia Act, many state and federal courts took the position that all picketing was coercive in intent and unlawful and that there could be no such thing as truly "peaceful" picketing. On the other hand, a smaller number of courts adopted the view that all peaceful picketing, including "stranger picketing" (i.e., picketing by persons who were not employees of the employer involved in the labor dispute) was lawful. The fact that picketing is at one and the same time a method of communication and a method of strong persuasion bordering on coercion contributed to this judicial confusion.

As we have seen, the enactment of the Norris-LaGuardia Act in 1932 substantially limited the power of federal courts to issue injunctions in labor disputes. State courts, however, continued to enjoin picketing under a variety of circumstances and for a variety of reasons, except where the power of state courts had been circumscribed by the enactment of state "Norris-LaGuardia Acts" modeled after the federal statute.

Commencing in 1937, a series of cases was brought before the United States Supreme Court involving the question whether picketing could be restricted by state legislatures and courts or whether it was protected from such regulation as a form of free speech guaranteed by the First Amendment of the Federal Constitution. These cases are of major interest to students of labor problems not only because they concern a major union weapon—picketing—but also because they indicate how the changing views of the Supreme Court may influence the pattern of state legislative and judicial control of labor relations and thus profoundly affect the evolution of collective bargaining in our society. As will appear more fully in the following discussion, it appears in retrospect that the Supreme Court first became intrigued with the idea of treating picketing as a form of free speech entitled to constitutional protection and then retreated from this position when it recognized the coercive elements present in picketing and the legitimate right of the states to limit picketing in certain instances to protect the public interest.

In 1937, in a case which affirmed the right of a state to enact a little Norris-LaGuardia Act, Justice Brandeis remarked: "Members of a union might without special statutory authorization by a State make known the facts of a labor dispute, for freedom of speech is guaranteed by the Fed-

²⁶ *James v. Marinship*, 155 P (2d) 329 (1944).

eral Constitution.”²⁷ This statement was misconstrued by many lawyers and judges to mean that picketing was a form of free speech guaranteed by the Constitution. Actually Justice Brandeis merely said that union members might make known the facts of a dispute, without stating what means they might use for this purpose. He did not say that union members had a constitutional right to make known facts by means of a picket line. Nevertheless, 3 years later in the case of *Thornhill v. Alabama*,²⁸ the Supreme Court completely accepted the doctrine that picketing was a form of free speech. An Alabama law, which termed picketing a form of loitering and made it a misdemeanor, was held unconstitutional on the grounds that picketing is a form of speech protected by the First Amendment and that a penal statute which makes picketing a misdemeanor without regard to the manner in which it is conducted is unconstitutional on its face. In the companion case of *Carlson v. California*,²⁹ the Supreme Court elaborated the doctrine of picketing as a form of speech in the following words: “Publicizing the facts of a labor dispute in a peaceful way through appropriate means, whether by pamphlet, by word of mouth or by banner, must now be regarded as within that liberty of communication which is secured to every person by the Fourteenth Amendment against abridgement by a State.” And in 1941 in *American Federation of Labor v. Swing*,³⁰ the Supreme Court held unconstitutional the decision of the Illinois Supreme Court enjoining peaceful “stranger” picketing of a beauty parlor when none of the employees of the beauty parlor were members of the union conducting the picketing. Thus, in the space of 4 years, peaceful picketing—a concept dismissed by many courts as a contradiction in terms and regarded by many as tortious in some or all of its aspects—became transformed not only into something lawful and proper but also something that was above the law.³¹

However, the notion that picketing is merely a form of free speech did not prove very satisfactory in view of the coercive elements usually present in picketing. As a result, the Supreme Court slowly began to modify its views. In 1941 the Supreme Court refused to set aside an Illinois injunction which forbade all picketing by a milk drivers’ union.³² The state court had reasoned that because the union had engaged in some bombing and roughhouse tactics, any picketing, even if conducted peace-

²⁷ *Senn v. Tile Layers’ Protective Union*, 301 U.S. 468 (1937).

²⁸ 310 U.S. 88 (1940).

²⁹ 310 U.S. 106, 113 (1940).

³⁰ 312 U.S. 321 (1941).

³¹ Gregory, *op. cit.*, p. 342.

³² *Milk Wagon Drivers v. Meadowmoor Dairies, Inc.*, 312 U.S. 287 (1941).

fully, would be colored by this prior violence and would not really be peaceful. The Supreme Court, in accepting this reasoning, impliedly agreed that picketing, even though peaceful, could be more than free speech.

In 1942 the Supreme Court ruled that a Texas court could enjoin picketing of a restaurant by a Carpenters' Union which was objecting to the fact that the restaurant owner was building a home with nonunion carpenters.³³ The Court's rationale in this case was the restaurant owner's dispute with the union did not concern the restaurant business; therefore picketing at the restaurant site unduly enlarged the area of conflict and resulted in "conscription of neutrals"—that is, members of the public—who had no interest in the dispute with the carpenters. This decision also recognized the coercive element in picketing, for if picketing were merely a manifestation of free speech, there should be no reason why it is not entitled to the same constitutional protection whether conducted at Ritter's home or at his restaurant. The retreat from the view that picketing is free speech continued in three important decisions handed down by the Supreme Court in 1950.

In *Building Service Employees International Union v. Gazzam*,³⁴ the Supreme Court held that the guarantee of free speech did not protect peaceful picketing which sought to persuade an employer to require his employees to join a particular union where the state statute declared the policy of the state was to protect individual employees from coercion by employers in the choice of their bargaining representative. Here the union was in effect using picketing to persuade or coerce the employer into violating the policy stated in the statute, and the Supreme Court agreed that the free-speech doctrine did not confer this privilege.

In *Hughes v. Superior Court of State of California*,³⁵ the Supreme Court held that a state court could constitutionally issue an injunction against picketing which was designed to induce an employer to employ a quota of Negro employees proportionate to his Negro customers. No state statute outlawed such a practice, and the employer could lawfully have set up such a quota. However, the state court regarded the union attempt to make the right to work depend upon race rather than ability or other qualifications as contrary to public policy, and the Supreme Court accepted such determination. This case, therefore, extended the holding of the Gazzam case and indicates that peaceful picketing can constitu-

³³ *Carpenters and Joiners Union v. Ritter's Cafe*, 315 U.S. 722 (1942).

³⁴ 339 U.S. 532 (1950).

³⁵ 339 U.S. 460 (1950).

tionally be enjoined when the objective of the picketing involves a violation of public policy as determined by a state court as well as a state legislature.

In *International Brotherhood of Teamsters v. Hanke*,³⁶ the courts of the state of Washington had enjoined a union of automobile salesmen from picketing a used car dealer, Hanke, who had no employees. The object of the picketing was to compel Hanke to enter into an agreement, signed by some other dealers, under which he would have been obliged to close his establishment after certain hours and on weekends. The effect of the agreement would have been to cause Hanke to stop operating himself and hire an employee or to join the union. If Hanke had agreed voluntarily to sign this agreement, there would have been no violation of state policy. However, the state courts held that the use of concerted action by the union to compel Hanke to make such an agreement was contrary to public policy. The Supreme Court accepted this determination of policy and refused to upset the ban against picketing.

Finally, in 1951, the Supreme Court held that the provisions of the Taft-Hartley Act banning certain types of picketing in connection with secondary boycotts did not violate constitutional guarantees of free speech.³⁷

Present Status of Picketing

Where do these decisions leave us so far as the present status of picketing is concerned? Lawyers and judges are not at all sure, and union leaders are even more troubled and confused. The rosy promise of constitutional protection for picketing has been dangled before labor only to be withdrawn except in limited cases. The Thornhill doctrine—that a law which forbids all picketing is unconstitutional—still stands. But the subsequent cases establish that picketing can be prohibited where its objective is unlawful in the sense that the employer's capitulation would violate public policy as determined by the state legislature or court. The Hanke case may go even further than this and indicate that the Supreme Court will not set aside injunctions against picketing which have been issued by state courts because of their view that the union objective in picketing has undesirable economic or social consequences, even though it is not unlawful. Likewise state legislatures or courts can constitutionally confine picketing to areas within which a close economic relationship exists between the persons doing the picketing and the persons or property picketed.

³⁶ 339 U.S. 470 (1950).

³⁷ *International Brotherhood of Electrical Workers v. NLRB*, 341 U.S. 694 (1951).

To the average laboring man, this seems like a return to the old doctrine of lawful and unlawful objectives, motives, and other mystical criteria which courts found handy in the past in justifying injunctions against union activity. It is true that there has technically been a change in the burden of proof—the old tort doctrine regarded picketing as illegal unless justified, whereas the present view is that restraints on picketing are unconstitutional unless justified.³⁸ But the practical outcome is much the same. The courts are once more in a position to impose their conscience upon the community, and union leaders cannot be sure whether their picketing—which generally has the objective of improving labor standards—will not also have an incidental consequence which the courts will deem unlawful or contrary to community interest.

This is an undesirable situation which requires reform. The legislature, not the courts, should determine public policy with respect to picketing. Just what such policy should be, however, is a thorny problem. It has been suggested that an attempt might be made to distinguish picketing which is coercive and picketing which is informational. One authority distinguishes picketing which is the “signal by which the union invokes its economic power” and picketing in which “publicizing is the primary element and the disciplined economic power of the union is an insignificant factor.”³⁹ By these standards, picketing is coercive where it appeals to fear and where its primary audience is other union men; it is informational where it appeals to reason and is directed at the general public. Thus, picketing of an industrial establishment to prevent supplies from coming in is primarily coercive; picketing of a restaurant with signs stating that the employer does not hire union labor is informational.

However, the elements of picketing are likely to be mixed even in such situations. Moreover, to seek to regulate picketing only where it is coercive would in effect regulate it where it is most effective from the point of view of labor. Consequently, such an attempted distinction would substantially weaken one of organized labor’s most effective weapons in raising its working standards.

QUESTIONS FOR DISCUSSION

1. What is meant by the term “injunction”? Discuss the manner in which the injunction has been used to impede labor’s organizational efforts. To what extent can employers still use the injunction in labor disputes?

³⁸ J. Tanenhaus, “Picketing-Free Speech: The Growth of the New Law of Picketing from 1940 to 1952,” *Cornell Law Quarterly*, Vol. XXXVIII (Fall, 1952), pp. 48–49.

³⁹ Archibald Cox, “Strikes, Picketing and the Constitution,” *Vanderbilt Law Review* Vol. IV (April, 1951), p. 595.

2. Should picketing be treated as a form of free speech? Discuss the changing views of the Supreme Court concerning this issue.
3. Discuss the various tests which courts have applied in determining the legality of union concerted activity. Should such determination be solely a legislative function?

SUGGESTIONS FOR FURTHER READING

FEINSINGER, N. P., and WITTE, E. E. "Labor, Legislation and the Role of Government," *Monthly Labor Review*, Vol. LXXI (July, 1950), pp. 48-61.

A concise history of the influence of legislation and judicial decision on the growth of organized labor in the United States.

GREGORY, C. O. *Labor and the Law*. 3d ed. New York: W. W. Norton & Co., Inc., 1958.

A readable account of how legislatures and courts have affected labor relations and the growth of unions in the United States.

LIEBERMAN, ELIAS. *Unions before the Bar*. New York: Harper & Bros., 1950.

A review, in layman's terms, of various important court cases which have profoundly affected the evolution of labor's rights in the United States.

Chapter 23

THE TAFT-HARTLEY ACT

The Taft-Hartley Act is one of the most controversial laws enacted in the United States in recent years. Union leaders have called it a "slave labor law" and "The Lawyers' Full Employment Act." Industry spokesmen have hailed it as a Magna Charta of employees' rights and have complained that it does not go far enough in outlawing various union practices. In this chapter, we shall consider in detail various provisions of this Act and its effect upon employers, unions, individual employees, and the general public. Since the Taft-Hartley Act is, in form, an amendment of the earlier National Labor Relations Act, or Wagner Act, as it is commonly known, we shall commence our discussion with a brief consideration of the Wagner Act.

THE WAGNER ACT

Economic and Legislative Background

The Wagner Act was enacted largely because of the failure on the part of American employers to modernize their concepts of industrial relations. By 1935, the year in which the Wagner Act was passed, significant changes had occurred in the rate of expansion of employment and in the character of the work force. As the rate of growth in the labor force slackened, opportunities for advancement diminished, and employees became more concerned with improving hours, wages, and working conditions of their existing jobs. The onset of the depression sharply cut the resignation rate of employees in industry. Since jobs were scarce, employees could not hope to better their conditions by shifting to other companies. Furthermore, the widespread unemployment of the depression developed a feeling among workingmen that layoffs were handled unfairly. All of these factors contributed to a growing interest on the part of labor in collective bargaining as a means of bettering conditions of work and protecting their rights.

As changes in employment opportunities were occurring, the character of the labor force was also changing. The annual number of high school graduates increased twenty-five fold between 1890 and 1935. By the latter date, 40 per cent of American children were completing a high school education, and most of the others were obtaining 1 or 2 years of it. Educated and thoughtful workmen brought up on the history of American democracy expect as a matter of right to have a voice in the determination of the conditions of employment under which they labor. American employers, however, were heedless of the changes which had taken place. Desirous of holding on to their prerogatives, and bred in the fierce individualism of the nineteenth century, they were unwilling to share determination of the terms and conditions of employment with organizations of their employees. The result was the passage of the Wagner Act.¹

The failure of industry to alter its industrial relations policies and voluntarily to recognize unions of its employees was all the more remarkable in view of the ample warnings that if industry did not act, government would be compelled to do so. Commencing in 1885, a long list of government commissions and agencies reported favorably in behalf of collective bargaining. In 1898, Congress passed the Erdman Act, which contained provisions making discrimination against union activity on the railroads a misdemeanor. Although this provision was declared unconstitutional, later railway legislation, including the Railway Labor Act of 1926, endorsed unionism and collective bargaining. And between 1890 and 1914, no less than fourteen states enacted legislation similar to the Erdman Act, only to have the courts declare such laws unconstitutional.

Nor was official governmental approval of collective bargaining confined to opinions of commissions or to railway labor legislation. During World War I, a committee composed of representatives of labor and management established a War Labor Board which not only recognized the right of collective bargaining but forbade discrimination because of union activity and conducted secret elections to determine bargaining agents. The Norris-LaGuardia Act of 1932 was primarily concerned with judicial procedure involving labor injunctions, but it contained a statement of policy which endorsed the right of employees "to full freedom of association, self organization, and designation of representatives of his own choosing, to negotiate the terms and conditions of . . . employment . . . free from the interference, restraint or coercion of employers. . . ."

With the advent to power of the Roosevelt administration, legisla-

¹ S. H. Slichter, "The Development of National Labor Policy," *Studies in Economics and Industrial Relations*, University of Pennsylvania Bicentennial Conference (Philadelphia: University of Pennsylvania Press, 1941), p. 143.

tive endorsement of the right to unionism and collective bargaining went forward rapidly. The National Industrial Recovery Act, approved June 6, 1933, was fundamentally an attempt on the part of the Roosevelt administration to promote economic recovery by permitting business to establish its own regulations, including control of prices. In order to secure labor support, however, the NIRA included the famous Section 7(a).

... (1) That employees shall have the right to bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid and protection; (2) that no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing. ...

Although this provision involved the most complete governmental endorsement of collective bargaining outside of the railway industry up to that time, it carried with it no effective penalties in case of employer disinclination to comply. A large number of employers did alter their policies in accordance with the spirit of Section 7(a), but the great bulk did not. Many employers, for example, took Section 7(a) as an invitation to establish company unions or employee representative plans in order to prevent the unionization of their employees. On the other hand, the American Federation of Labor regarded Section 7(a) as public encouragement of collective bargaining. This clash of viewpoint led to strikes and industrial unrest as immature unions clashed with antiunion employers.

In an attempt to cope with this situation President Roosevelt appointed a tripartite National Labor Board under the chairmanship of the late Senator Robert Wagner of New York. The National Labor Board became an agency which took on the functions of settling labor disputes by mediation and voluntary arbitration; of determining whether unions represented employees in a given instance; and of determining whether employers unfairly interfered with the organizational rights of their employees. In carrying out these functions, the National Labor Board developed many of the policies later followed by the National Labor Relations Board under the Wagner Act in regard to the appropriate bargaining unit and the meaning of unfair labor practices. The National Labor Board, however, had no authority to penalize employers for unfair labor practices except by referral to the attorney general's office where the maximum penalty was revocation of the right to place the NRA blue eagle on the product of the alleged unfair employer.

In June, 1934, Congress passed Joint Resolution No. 44 which created a National Labor Relations Board as a substitute for the National Labor Board. This agency, not to be confused with the NLRB created under the Wagner Act, continued the work of the National Labor Board and attempted without too much success to overcome the opposition of business within the framework and the limited sanctions of the NRA. Its work ceased when the NRA was declared unconstitutional in 1935.

Besides these two labor boards of the NRA period, others were in existence for special purposes. They included agencies established in the textile, automobile, petroleum, and newspaper fields. In addition, both the National Labor Board and its successor agency established regional boards throughout the country, thus foreshadowing the administrative structure of the National Labor Relations Board under the Wagner Act.

Wagner Act—Purpose and Content

The Wagner Act ranks without a doubt as the most significant labor law ever enacted in the United States. The Norris-LaGuardia Act of 1932 "ushered in a period of almost complete freedom for union expansion through economic self-help."² The Taft-Hartley Act of 1947 modified the Wagner Act in many important respects. But the Wagner Act marked a complete departure from pre-existing governmental labor policy in that "it pledged the government to aid employees in securing independent organization, free from employer interference . . . Congress virtually ordered employers to stop resisting the spread of unionism, telling them that the desire of their employees to organize was none of their business and to keep their hands off."³ Moreover, in contrast to predecessor legislation aimed in the same general direction, the Wagner Act provided a singularly effective mechanism to achieve its purpose. The Wagner Act, therefore, required a completely new orientation of employer industrial relations policies.

The Wagner Act was based upon the philosophy that the failure of employers to accept collective bargaining results in strikes and interferes with the flow of commerce, that the inequality of bargaining power between individual employees and employers who are organized as corporations aggravates depressions by depressing wage rates and reducing purchasing power,⁴ and that the protection of the right of employees to

² C. O. Gregory, *Labor and the Law* (New York: W. W. Norton & Co., Inc., 1946), p. 223.

³ *Ibid.*, p. 224.

⁴ The purchasing-power theory of the business cycle was a basic strand in the thinking of the New Deal in this period.

organize into unions of their own choosing removes most of these difficulties. Therefore, the Act declared it to be the policy of the United States to encourage the practice and procedure of collective bargaining and to protect the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

The heart of the Wagner Act was contained in Section 7 which declared that employees "shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection." To preserve these rights the Act specifically prohibited various unfair labor practices of employers which were listed in the Act. These employer unfair labor practices have been carried over into the Taft-Hartley Act which, in addition, has added certain unfair labor practices on the part of unions.

Section 8 of the Wagner Act, which enumerated the unfair employer practices, made it illegal for employers (1) to interfere with, restrain, or coerce employees in the exercise of rights guaranteed in Section 7; (2) to aid or support the unions of employees; (3) to discriminate against employees in layoffs, promotions, or other conditions of employment because of the employees' membership or activities in a union; and (4) to discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this Act. To these negative proscriptions, the Act added an affirmative one. Section 8(a) (5) required employers to bargain collectively with the duly designated representatives of their employees.

The philosophy of Section 8 was that employers must absolutely refrain from concerning themselves with the union activities of employees. This meant not only that employers henceforth could not establish company unions or employee representation plans but also that employers could not exercise an influence which might retard or help a particular union to be designated as a representative of the employees. This legislative attitude is understandable in view of the weak condition of unions at the time and the fact that without such protection, independent unions would have had great difficulty in the face of hostile employer resistance.

Unfair Labor Practice Procedure

The administration of the Wagner Act was given to the three-man National Labor Relations Board. In performing its duties, the NLRB

had two principal tasks: (1) preventing employer unfair labor practices; and (2) determining whether a union represented a group of employees for purposes of collective bargaining.

In a typical unfair labor practice case, under the Wagner Act, the NLRB received a complaint from the union in behalf of an individual worker alleging some violation of Section 8. A field examiner of the Board investigated the case, and if the Board found that there was sufficient evidence to warrant a hearing, it set down the case for hearing and, if necessary, issued such subpoenas as were needed for the appearances of records and persons. In more than three quarters of the cases, however, settlement was achieved by informal methods before the hearing actually took place. Such settlement involved, for example, agreement on the part of an employer to reinstate an employee discharged for union activity or to post a notice for a period of 30 days stating that he would not repeat or engage further in discrimination in violation of Section 8. If in a preliminary investigation the Board found that there was no basis for the complaint, it would dismiss it, and the complainant had no further recourse.

Hearings under the Wagner Act were conducted under the best accepted methods of administrative process. The NLRB was always careful to give all interested parties due notice and the right of hearing. However, the Board did act as both judge and prosecutor which to some critics seemed unfair. Criticism of this feature of administration of the law ultimately led to establishment of the position of independent General Counsel under the Taft-Hartley Act, whose job it is to initiate complaints and bring them before the Board.

An unfair labor practice decision of the NLRB could be reviewed upon petition of the respondent, or if the respondent failed to obey the Board, upon petition of the Board for enforcement. When the petition for review was filed, the record was sent to the pertinent circuit court of appeals which then determined whether the Board's finding was based upon the evidence. The court, however, could not substitute its views for those of the NLRB. If the court held for the Board, it would then issue an order making the order of the Board the order of the court. The employer could then appeal the case to the Supreme Court, but if the decision of the lower court was affirmed, the employer would have to obey the order or stand in contempt of court. Likewise, if the circuit court declined to enforce the Board's order or upset it, the Board could appeal to the Supreme Court for a reversal of the lower court's decision.

In enforcing unfair labor practice cases, the Board could issue certain orders. For example, it might require the employer to "cease and desist" from activities which it found in violation of Section 8. More im-

portant, it might require the employer to take affirmative action, for example, the reinstatement of employees with back pay who had been discharged or discriminated against because of union activity, or even the employment of workers who were never hired but who were refused employment because of their union affiliation. In addition, the Board could order the employer to disestablish a company union and withdraw recognition from any union which was recognized or with whom he bargained if that union had been aided by the employer. Finally, in cases in which the employer was found to have refused to bargain with a union which was the duly chosen representative of his employees, the NLRB would order him to bargain upon request of that union.

In the first years of the Wagner Act, employer unfair labor practices were relatively simple to discern, but as the years passed, antiunion activities became more subtle and difficult to detect. Among the most difficult cases to determine were those in which a "refusal to bargain" was alleged. Frequently, such charges had merit, but often unions filed them as a tactical maneuver to put the employer on the defensive in collective bargaining. The NLRB decided each case on its merits, but some basic principles were developed. For example, if an employer refused to meet with a union, or if he refused to negotiate with an authorized union representative, or did meet with an unauthorized representative, the Board would find the employer refused to bargain. But then there were cases in which the employer was charged with "merely going through the motions." Here the Board had to determine whether bargaining was in good faith. A principal test would be whether the employer made counter proposals or just said "no"; whether obvious employer procrastination was found; or whether the employer would agree to meet with union representatives at a reasonably convenient time and place. Also the NLRB ruled that it was an unfair labor practice for an employer to agree with a union on terms and conditions of employment, but then to refuse to embody the agreement in a written contract.⁵ These were just a few of the NLRB's decisions which forced a complete turnabout in the conduct of employers who, in pre-Wagner Act days, freely discriminated against employees who joined unions and refused to deal with unions under any circumstances.

Representation Cases

Equally as important as unfair labor practice cases in the work of the NLRB, and every bit as controversial as a result of the split in the

⁵ In affirming this decision, the Supreme Court noted that a businessman would be shocked and suspicious if one of his fellow businessmen refused to put into writing an agreement already arrived at. *H. J. Heinz Co. v. NLRB*, 311 U.S. 514 (1941).

American labor movement which existed until 1955, have been representation cases. Section 9(a) of the Wagner Act provided that "Representatives . . . selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining. . . ." This provision, with some additions which we shall consider at a later point in this discussion, was carried over into the Taft-Hartley Act.

Congress adopted the majority-rule principle basically because experience had shown that it was the only practical method. The representative of the majority is thus the representative of all the employees in the bargaining unit whether or not they are union members, just as a Congressman represents everyone in his district regardless of whether they are members of his party or whether they voted for him or his opponent in the last election. If minority representation were permitted in collective bargaining, the employer would be constantly faced with demands from one or another group desirous of attracting support. Obviously, under such a setup neither collective bargaining nor a business would stand much chance of survival.

In order to determine whether a given union was the representative of workers in a plant, the NLRB usually held elections among the workers. The names of the union or unions seeking certification were placed on the ballot along with "No Union." If a union won a majority of these votes, it was certified as the bargaining agent with whom the employer had to bargain as the exclusive agent of the employees involved. If "No Union" received a majority, no certification was made.

Early in its life the NLRB was forced to determine whether a majority meant a majority of those eligible to vote or a majority of those who actually voted. At first it adopted the former interpretation, but it soon found that this inspired coercion to keep employees from voting. The NLRB then altered its policies and certified unions as bargaining agents if they received a majority of the votes cast. This proved a wise move, for it compelled all interested groups to vie in getting into the vote. As a result, votes cast in NLRB elections averaged 80–90 per cent of those eligible, as compared with the average 50–65 per cent of those eligible who vote in national political elections.

Bargaining Unit Problems

If the majority-rule question posed difficult problems for the NLRB, they were nonetheless relatively easy to determine when compared with the problems involved in deciding which employees are eligible to vote

in an election to determine the bargaining agent and which groups of employees shall have the right to separate choice of bargaining agents. Congress delegated these problems, known as questions of the "appropriate bargaining unit," to the NLRB, giving it almost unlimited authority⁶ in Section 9(b) of the Wagner Act which stated that "The Board shall decide in each case whether, in order to insure to employees the full benefit of their right to self-organization and to collective bargaining, and otherwise to effectuate the policies of this Act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof." This wide authority was given to the NLRB in the belief, based on experience of the NRA labor boards, that the various problems which arose were not foreseeable and could best be determined by the NLRB. The AFL supported this viewpoint, not of course being able to predict that a full-fledged rival would arise to have equal status and different views on bargaining unit problems.

In most cases, however, the NLRB was able to secure agreement from the parties on the bargaining unit. Although the Board decided each case on the merits, it grouped the facts determining its bargaining unit decisions around two basic criteria—the history of collective bargaining, if any, and the mutuality of interests of the employees.

In the first group were such factors as the past relationships between unions and employees, the unit covered by such relationships, the jurisdictional rules of the unions, and past unsuccessful efforts of self-organization. Strike histories were also important, for strikes show relationships and test the homogeneity of groups.

Around mutuality of interest, the Board placed a variety of factors, such as geographical location, manner of wage payment, degree of skill, comparability of wages, working conditions, etc. This meant that the typical bargaining unit was composed of production and maintenance employees in a single plant. Foremen and supervisors were excluded from the production worker's unit because of their peculiar relation to management. Likewise, office, clerical, and white-collar workers were separated from production and maintenance employees, as were professional employees. In addition, guards and watchmen were placed in separate units because of their unique position, and temporary employees were often deemed outside the bargaining unit because they had no permanent status in the plant. All these decisions were based on the fact that production and maintenance employees have a basic common de-

⁶ This authority has been restricted to some extent in the Taft-Hartley Act with respect to craft units, guards, and professional employees. See subsequent discussion in this chapter.

nominator which was lacking among other plant groups, especially since many of the latter have a special and different relation to the employer.

Wagner Act, Union Growth, and Strikes

That the Wagner Act achieved its basic purpose in compelling a change in employer policy toward unions cannot be doubted. In 1935, when the Act became law, union membership stood at 3,900,000. In 1947, when the Wagner Act was amended, union membership exceeded 15,000,000. Although this union growth must be attributed to many factors, it was without a doubt substantially hastened by the Wagner Act. If the Wagner Act is judged in terms of fulfillment of its stated policy of "encouraging the practice and procedure of collective bargaining," it was eminently successful.

On the other hand, the Wagner Act cannot be said to have minimized the causes of industrial disputes except in one important respect. The representation procedure of the Act provided a peaceful and democratic means of determining whether a union had the right to represent a group of employees. The substitution of NLRB procedure for the use of force in determining this question was one of the great contributions of the Act.

Insofar as strikes generally are concerned, however, the Wagner Act had little contribution to make. Congress gave the NLRB no authority to interfere in disputes over terms and conditions of employment. Once the union was certified as bargaining agent and the employer's conduct was purged of unfair labor practices, the Wagner Act left matters to the parties themselves. But since the protection of the Act spurred union activity, the period 1935-41 saw a great surge of union growth. A combination of immature unions and management inexperienced in industrial relations resulted in numerous strikes which more mature and experienced parties might have avoided. Critics of the Wagner Act blamed either the Act or its administration by the NLRB as the cause of the strife. Proponents of the Act blamed management opposition to both the Act and to unions as the cause. Perhaps a more accurate analysis would place the blame mainly on growing pains of unions and learning pains of management.

At least by the end of 1946, after the great strikes of that year, a majority of the public probably blamed the Wagner Act for much of the industrial unrest. Critics of the Act were aided by some excesses on the part of the unions, especially those involved in refusing to honor NLRB certifications. Moreover, the assumption on the part of the proponents of the Wagner Act, which was frequently expressed in the early days of

the law, that once unions were effectively organized, strikes would decline, played into the hands of the opponents of the law, particularly after the many strikes of 1946. Hence when the Republican Party captured control of Congress in 1946, its leaders believed that they had a mandate to enact legislation which would lessen the number of strikes—and this they believed meant drastic amendment of the Wagner Act.

THE TAFT-HARTLEY ACT

The Wagner Act was under severe public criticism from its enactment in 1935 until its amendment 12 years later. Beginning in 1941, a series of bills modifying the Wagner Act passed the House of Representatives, only to be bottled up in the Senate Labor Committee. In 1946 the so-called Case Bill passed both Houses of Congress but was effectively vetoed by President Truman. Two minor laws—the Hobbs Anti-Racketeering Law and the Lea Act—were passed by Congress in this period. The former attempted to curb alleged racketeering by Teamsters, union officials, and others charged with disguising extortion behind union demands; the latter was aimed at some of the more obvious “feather-bedding” activities of James Caesar Petrillo and the Musicians’ Union. Neither law proved very successful.

Throughout this period, organized labor remained firmly opposed to any amendment of the Wagner Act. To the pleas of liberal Congressmen that organized labor agree to minor modifications of the Wagner Act, union leaders turned a deaf ear. Their attitude resembled that of employers who in the period before 1935 refused to modify their views on union recognition, until compelled to do so by the Wagner Act. Consequently, labor’s friends in Congress had no constructive program with which to combat attacks on the Wagner Act. The amendment of the Wagner Act, which was finally enacted, therefore, strongly reflected the views of employer spokesmen whose objective was to curb the power of organized labor.

The stage was set for restrictive labor legislation by the wave of strikes in 1946. In that year, time lost through strikes reached an all-time high of 113,000,000 man-days—a figure three times higher than in the previous year or in 1937, the two worst years up to that time. On four different occasions during the year 1946, nation-wide strikes paralyzed essential industries. The blame for these stoppages cannot be laid entirely at the door of labor. Workers will not ordinarily strike unless they believe that their employers have refused to accede to reasonable demands. Nevertheless, the average American citizen was appalled by the power

of a union which, twice within the space of one year, could tie up a vital industry such as coal. Public utility strikes, like the lengthy strike of electric light and power workers in Pittsburgh, were particularly damaging to the union cause. Then followed the Congressional elections of November, 1946, which reflected strong public dissatisfaction with current labor policies and which were interpreted by Congress as a mandate for restrictive labor legislation. On June 23, 1947, the Labor-Management Relations Act—more popularly known as the Taft-Hartley Act—was passed by Congress over President Truman's veto.

Thus ended an important stage in the development of national labor policy in this country. The attitude of government toward collective bargaining by employees had passed through a succession of stages from active hostility in the early 1800's when labor organizations were prosecuted as conspiracies to active encouragement of union organization under the Wagner Act. Enactment of the Taft-Hartley Act represented a new stage in government treatment of both management and labor. The metamorphosis which had occurred in public thinking on the subject of collective bargaining is well exemplified by a comparison of the original phraseology of Section 7 of the Wagner Act with its revised wording in the Taft-Hartley Act: "Employees shall have the right to self-organization . . . for the purpose of collective bargaining or other mutual aid or protection, *and shall also have the right to refrain from any or all of such activities. . . .*" Whereas formerly the weight of government influence had been placed behind union organizing activities, the government now adopted a neutral attitude, recognizing the right of employees to organize and not to organize. Henceforth, government was to be not a partisan but a policeman, protecting both management and labor from unfair practices. Whether such neutrality is possible is, of course, debatable.

SCOPE AND ADMINISTRATION OF THE ACT

The Labor-Management Relations Act of 1947 was, in form, an amendment of the Wagner Act. Title I incorporated the text of the Wagner Act with, however, a number of major modifications and additions. Title II, which dealt with conciliation of labor disputes and national emergency strikes, is discussed in Chapter 24. Title III authorized suits by and against unions, and Title IV created a joint committee to study and report on basic problems affecting friendly labor relations and productivity. Most of the provisions of the Act became effective either on June 23, 1947, or 60 days thereafter. However, closed shop, union shop, and other forms of union-security contracts in operation when the Act

was passed were not affected until expiration or renewal, even though the agreements might have as much as 2 or 3 years to run. Furthermore, union-security contracts signed within 60 days of the Act's passage and running for a period of no more than a year were not affected until expiration or renewal. Thus the full impact of the Act on union-security contracts did not make its influence felt until about the middle of 1948.

During most of the period in which the Act has operated, the demand for labor has been high, and therefore employers, in order to assure a satisfactory labor supply, have been inclined to forego exercise of some of the powers given them by the Act, which, if exercised, might restrict union activities considerably. In appraising the good and bad features of the Taft-Hartley Act, it is therefore necessary to consider its various provisions not only in the light of actual experience under them but also in the light of what effect they might have upon union-management relations in times of general unemployment.

Administration

Administration of the Act remained under the National Labor Relations Board, but a number of important changes were made in the composition and power of the NLRB. Section 3 of the Act enlarged the Board from three to five members. To remedy the oft-repeated charge made against the Board under the Wagner Act that it was both judge and prosecutor, the prosecuting function was removed from the Board and vested in a General Counsel who was made completely independent of the Board. For a time it appeared that the effective operation of this agency would be impaired by disagreements between the independent General Counsel and the Board as to what employers and employees were subject to the Act. In early 1950, the Board revoked its prior issuance of administrative functions to the General Counsel and issued a modified substitute which subjected the General Counsel to the Board's direction in matters of basic policy.

Extent of Coverage of the Act

Under both the original Wagner Act and the Taft-Hartley Act, the jurisdiction of the NLRB may be extended to any business "affecting commerce." The NLRB has chosen, however, not to exercise fully the powers granted to it by Congress. Although the 1947 amendments restricted the powers of the Board to cede jurisdiction to the States and although a number of the amendments were specifically intended to protect small employers from union excesses, the Board in 1950 and again in 1954 has laid down standards intended to exclude "local businesses"

from the Board's jurisdiction. Unfortunately the Board's interpretation of what is local is not always entirely logical. For example, the Board has exercised jurisdiction over restaurants, but has rejected any responsibility it may have to protect the rights of employers and employees in hotels.

The action of the Board in thus limiting its jurisdiction has nullified in practice certain aspects of the protection which the Act attempted to afford to small employers. For example, the Taft-Hartley Act makes it an unfair labor practice to coerce an employer or self-employed person to join a union. Obviously this provision is most meaningful in the case of small employers or self-employed persons working without hired help; yet the Board will not ordinarily take jurisdiction of such cases because the business involved does not normally meet the Board's jurisdictional requirements.

The question arises as to what recourse is left to employers and employees in cases that fall outside of the jurisdictional scope of the NLRB according to its self-imposed limitations. Section 10(a) of the Taft-Hartley Act limits the power of the Board to cede jurisdiction to states which have labor laws consistent with the Federal Act. Twelve states, Hawaii, and Puerto Rico have at present comprehensive labor relations laws, but it appears that none of these have met the consistency requirement laid down in the Taft-Hartley Act. As a consequence, the NLRB has not ceded any jurisdiction to the states since the passage of the 1947 amendments. Some state courts have taken the position that state labor relations boards have the power to act in cases involving interstate commerce where the National Labor Relations Board has refused to assert jurisdiction. However, in a series of decisions in early 1947, the United States Supreme Court blocked this attempt to solve this "no-man's land" problem by holding that Congress, by vesting in the NLRB jurisdiction over labor relations matters affecting interstate commerce, had completely displaced state power to deal with such matters, except where the NLRB expressly cedes jurisdiction pursuant to Section 10(a) of the Act referred to above. It appears, therefore, that the solution to this jurisdictional problem will have to wait on Congressional action. A number of alternatives have been suggested. One approach would be to retain the broad powers of the NLRB as presently stated in the Act but ease the method by which the Board may cede jurisdiction to a state agency. Such action, it has been suggested, would encourage states to act more aggressively in the field of labor-management relations and reduce the need for federal law. Another approach would have Congress itself, rather than the NLRB, spell out the jurisdictional requirements for action by the Board. Whatever

the solution, it should ideally preserve the flexibility of the Board as an administrative agency, avoid overwhelming it with a mass of cases beyond its capacity to handle, provide a means for application of the general principles of the Taft-Hartley Act on a uniform basis, and assure that all employers and employees intended to be included within the coverage of the Act are in fact afforded the protection of the law.

The Taft-Hartley Act made important changes in the definition of "employer" and "employee" as these terms were used in the Wagner Act. Formerly, the term "employer" included "any person acting in the interest of the employer." Now it was redefined to include any person acting as "agent" of an employer. The reason for this change was that the NLRB had held employers liable for unfair practices when these practices had actually been engaged in by minor supervisory employees who sometimes acted without authority and even contrary to express instructions from their employer. Union leaders, however, charged that this change in terminology had gone too far, since it would make it difficult for the NLRB to take action against employers' associations which engage in "open-shop drives" or other unfair practices unless it could be proved that the employer had actually constituted the association his agent for this purpose.

Most important, perhaps, was the removal of supervisor from the protective coverage of the Act. Under the Wagner Act, the NLRB vacillated as to whether or not that Act protected the right of supervisors to form unions and engage in collective bargaining, but it consistently held that the Act protected supervisors as employees from discriminatory practices by employers. Under the Taft-Hartley Act, however, supervisors were deprived of both of these protections and were therefore compelled to rely solely on economic weapons to achieve their objectives. Supervisors could still join unions, but employers were free to use any means to intimidate and forestall such organization. In practice, the Taft-Hartley Act dealt unions of supervisors a hard blow. After its enactment, contracts of the Foreman's Association of America with Ford Motor Company and other important firms were not renewed. However, the Act has had little effect in printing and other industries in which it was customary to include foremen in unions of employees. The Act distinguished between straw bosses, lead men, setup men, and other minor supervisory employees, on the one hand, and supervisors vested with such genuine management prerogatives as the right to hire, fire, or discipline, on the other. Only the latter were excluded from the Act.

The treatment of supervisors under the Taft-Hartley Act has been criticized on the ground that it disregards past history and practice and

attempts to assimilate to management a group whose fears and hopes and needs are in many cases more akin to those of employees than employers. Foremen and other classes of supervisors are in an anomalous position in American industry. They are supposed to be the representatives of management in the shop, but they also have problems concerning their own wages and hours which tend to put them in the position of employees versus management. Under the Wagner Act, the NLRB certified unions of foremen. In doing so, the Board did not distinguish between independent and affiliated unions of foremen. It did, however, place foremen in separate bargaining units from those of rank-and-file employees. This separation was more apparent than real in instances in which the same union was certified as the representative of the foremen and of the rank and file. The problem that concerned Congress was this: if employees belong to an AFL union and strike and the foremen also belong to an AFL union, will the foremen be loyal to management or to the AFL? The Taft-Hartley Act seeks to discourage organization of supervisors and thus solve this problem of divided loyalties. The fact is, however, that foremen will not be loyal representatives of management unless management pays them adequately, hears their grievances, and through training and indoctrination makes them feel a part of the management group.

HOW THE EMPLOYER WAS AFFECTED

In form, the Taft-Hartley Act retained the five unfair labor practices specified in the Wagner Act, and therefore, to a casual reader, it might appear that the employer is still subject to the same restrictions as under the Wagner Act. Actually, however, newly added provisions in the law afford the employer a number of important new freedoms.

Free Speech

The Taft-Hartley Act accepted in principle employers' complaints on the "free-speech" issue. Under the original Wagner Act, the employer was prohibited from interfering with employee-concerted activities. This was so construed that practically any opinion expressed by an employer against union organization was held to be an unfair labor practice. In the years immediately prior to enactment of the Taft-Hartley Act, however, the Board modified its views so as to permit some employer opinions to be stated in the interest of preserving the right of free speech. The Taft-Hartley Act clarified this right by specifically providing in Section 8(c) that the expression of any views, arguments, or opinions could not

be considered evidence of an unfair labor practice unless there was an actual threat of reprisal or force or promise of benefit.

The protection afforded by this provision is capable of acting as a serious deterrent to union organizing activity in those areas, such as parts of the South where unions are not yet entrenched. The employer no longer has to remain neutral in a bargaining representative election, and can actively campaign for "no union." Thus, for example, it is not an unfair labor practice under the Act for an antiunion employer to compel employees to meet on company time to hear an attack on unions, as long as the address is phrased in terms of "opinion" rather than "threats." However, under the Democratic Truman administration, the NLRB sought to limit such freedom of speech by requiring employers who addressed employees on company time and property to make equal time and facilities available for the union organizers. This requirement, which became known as the Bonwit Teller doctrine, was in keeping with the concept of the Board that "laboratory conditions" should prevail in an election with the employees not being subjected to undue persuasion. It is interesting to note that the proportion of "no union" votes in representation elections, though greater today than in the early days of the Wagner Act, was not greater in the first 4 years of the Taft-Hartley Act than in the last 4 years of the Wagner Act.⁷ Such "laboratory conditions," however, may be difficult to maintain under the new revised interpretations of the Board. In late 1953, the NLRB, reflecting the views of a Republican-appointed chairman and member, reversed the Bonwit Teller doctrine and held that up to 24 hours before a representation election, the employer may address his employees on the subject of union organization without giving the union the same privileges, provided he makes no threats or promises of benefit. If he speaks within the 24-hour period, a new election may be held, but he will not be charged with an unfair labor practice. In reversing its previous decisions, the NLRB took the position that it was not the intent of Congress that "one party must be so strangely open-hearted as to underwrite the campaign of the other." The Board questioned whether the union would permit the employer to take over a meeting in the union hall to present his views.

The present interpretation of Section 8(c) has undoubtedly strengthened the hand of antiunion employers in resisting union organization. Although this Section has thus been interpreted to insure freedom of speech to employers, its benefit to unions has been restricted by NLRB and judicial construction. Unions hoped that this section would also pro-

⁷ See S. H. Slichter, "Revision of the Taft-Hartley Act," *Quarterly Journal of Economics*, Vol. LXVII (May, 1953), pp. 154-55.

tect all forms of peaceful picketing in which union men carried placards expressing their opinions in a labor dispute. However, both the Board and the Supreme Court have adopted the view that picketing is more than mere expression of opinion, and that Section 8(c) does not limit the other sections of the Taft-Hartley Act which prohibit picketing in various classes of disputes.

Reinstatement and Disestablishment

Section 10(c) of the Act prohibited the Board from ordering reinstatement or back pay in any case where the discharge was made "for cause." This provision was included, according to the majority report of the House Labor Committee, in order to "put an end to the belief, now widely held and certainly justified by the Board's decisions, that engaging in union activities carries with it a license to loaf, wander about the plants, refuse to work, waste time, break rules and engage in incivilities and other disorders and misconduct." The basis for this charge does not appear to have been factual. President Truman, in his message vetoing the Taft-Hartley Act, expressed the fear that this clause would permit an employer to dismiss a man on pretext of a slight infraction of shop rules, even though his real motive was to discriminate against the man for his union activity. However, the NLRB has indicated that it will not allow this clause to be used as subterfuge. For example, in one case, a company reduced its force by one hundred fifty men because of economic conditions, and it included in this number a disproportionately large number of union members and participants in a recent strike. The Board held that these discharges could not be camouflaged as "for cause."⁸ The NLRB has continued to order reinstatement where circumstances warrant this remedy for workers illegally discharged. During the fiscal year of the NLRB ending June 30, 1956, in cases filed against employers, a total of 593 workers were ordered reinstated in their jobs and 603 workers received back-pay awards.⁹

The Taft-Hartley Act required modification in NLRB practice with regard to disestablishment of unions as bargaining agents. After passage of the Wagner Act, employers sought to satisfy the collective bargaining provisions by inducing employees to bargain through so-called company unions, unaffiliated with national unions. Frequently, such company unions were dominated by employers who paid their expenses and appointed their officers. Where this condition was found to exist, it was the

⁸ *NLRB v. Sandy Hill Iron Brass Works*, 22 LRRM 2021.

⁹ *Twenty-First Annual Report of National Labor Relations Board* (Washington, D.C., 1957), p. 2.

practice of the Board to order disestablishment. An organization affected by such an order, no matter if its members and officers subsequently purged themselves of the taint of employer domination, would not thereafter be permitted recognition. By contrast, when an employer assisted an AFL union to get a majority in order to keep out a CIO union, the Board merely directed the offending employer to cease giving such assistance. The Taft-Hartley Act sought to compel uniform treatment of both unaffiliated and affiliated unions.

The NLRB policy under the Taft-Hartley Act has been to disestablish a union, whether it is affiliated or unaffiliated, if the employer dominated it; or to cut off its bargaining rights temporarily, if the employer gave it illegal assistance. While this policy is applied uniformly to both unaffiliated and affiliated unions, there has been, in practice, little change from the earlier procedure under the Wagner Act, since affiliated unions are seldom found to be "dominated," and therefore the most that will be done to them is a temporary withdrawal of bargaining rights, subject to certification in a new election. However, in one case, the NLRB ordered disestablishment of a local of the AFL's Teamsters' Union on the ground that it had been unlawfully dominated and assisted by an employer in order to prevent a CIO union from organizing the company's employees.

Procedural Privileges

Employers were also granted important procedural rights. Whereas previously employers could petition for an election only when confronted with demands for bargaining rights by two or more competing unions, they could now seek an election whenever a union made a demand for recognition. The grant of this privilege to the employer restrained premature claims of representation by unions attempting to organize a plant; for if the union failed to secure a majority vote in an election called by the employer, the Act prohibited the holding of another election for 12 months. The right to request an election has been frequently utilized by employers. During the fiscal year July 1, 1955, to June 30, 1956, employers petitioned for elections in 595 cases.¹⁰

Another important right provided in the Taft-Hartley Act is the privilege to sue unions in federal court for breach of contract. Contrary to the grim prognostications of union leaders, there has been no rush by employers to sue unions. As a matter of fact, since 1950 the number of damage suits brought under this section of the Act in federal courts has declined. From this it would appear that the newness has worn off and

¹⁰ *Twenty-First Annual Report of National Labor Relations Board*, p. 2.

the use of this privilege is becoming less important in the minds of employers generally.

The federal district courts in New York have handled more litigation under the jurisdiction of Section 301 (suits involving violation of contract between an employer and a labor organization or between labor organizations) and Section 303 (suits against labor organizations that engage in secondary boycotts and other unlawful activities) than any other federal courts in any single judicial circuit. These courts processed a total of seventy-four cases in the first 5 years after enactment of these sections. Analysis of the disposition of these cases indicates that only four of these cases resulted ultimately in money judgments, and in only one of these was the court judgment paid to a plaintiff employer.

This record indicates forcefully why labor disputes cannot be settled adequately in a court of law. Labor relations are a continuing relationship. Litigation only engenders hostility and makes honest collective bargaining more difficult. The threat of a damage suit may be useful to employers as a bargaining strategy, but the diminished use of this section by employers indicates the recognition by the latter of the shortcomings of this approach to solution of labor difficulties.

One direct result of the inclusion of these sections in the Taft-Hartley Act has been the increase in frequency of clauses in labor contracts protecting the union against financial liability in the event of unauthorized strikes. Contrary to expectations, however, there appears to have been no reduction in the frequency of no-strike clauses in labor agreements negotiated since enactment of the Taft-Hartley amendments.

HOW UNIONS WERE AFFECTED

Unfair Labor Practices

The Wagner Act sought to overcome the disparity of bargaining power between employers and employees which existed at the time of its enactment. Therefore its restrictive provisions were all directed at employers, while unions were left free to engage in strikes, picketing, and various forms of coercion short of violence, in order to achieve organization of the workers. For this reason, the Wagner Act was criticized as being a one-sided law. The Taft-Hartley Act was designed to remedy this oneness. It proceeded on the assumption that substantial equality of bargaining power had been achieved and that therefore both union and management should be subject to similar prohibitions regarding un-

fair practices.¹¹ Those to which unions are subject are six in number, enumerated in Section 8(b) of the Act:

1. *Restraint or Coercion.* It was made an unfair labor practice for a union to restrain or coerce employees in the exercise of the rights guaranteed them in Section 7. The latter guarantees the right to bargain collectively through representatives of the employees' own choosing and also the right to *refrain* from such activity (except where a union shop has been authorized by law). This section was intended to protect individual employees from the strong-arm tactics of union "goon squads" which, allegedly by threat and intimidation, sometimes secured a majority vote which did not reflect the preference of the workers. Union officials, however, argued that if this section was directed at physical assaults and threats of violence, state and local laws were already adequate to deal with this problem, whereas if it applied to conduct short of physical coercion, it could be used by antiunion employers to obstruct the organizing activities of unions. Moreover, NLRB secret ballot elections would appear to blunt the efforts of "goon squads."

2. *Illegal Demands for Union Security.* It was made an unfair labor practice for a union to cause an employer to discriminate against an employee for nonmembership in a union unless there was a union-security contract with the employer which was recognized under the Act. The closed shop was prohibited even though both employer and employees were satisfied with its operation.¹² This prohibition, if enforced, could have had far-reaching effects upon labor relations in view of the fact that prior to enactment of the Taft-Hartley law, in the neighborhood of 4,800,000 employees worked under closed-shop arrangements.¹³ However, on the whole, closed-shop industries have either ignored the prohibition or have circumvented it. This part of the law imposes no penalties and therefore is not brought into operation unless an individual employee charges an unfair labor practice.

A union-shop provision in a collective agreement was recognized under the Act if it allowed at least 30 days after hiring before new employees were required to become members of the union. However, before a union could negotiate such a security provision, it was required to fulfill

¹¹ Despite this change in emphasis, more than 80 per cent of the Board's time under the Taft-Hartley Act has been spent in handling cases submitted by unions, not employers.

¹² The closed-shop ban was held by both the NLRB and the Supreme Court to outlaw union hiring halls. These hiring halls are common in the maritime industry where the union runs a central employment office that receives requests from employers for workers and assigns jobseekers to the openings.

¹³ *Monthly Labor Review*, Vol. LXIV (May, 1947), p. 766.

a number of conditions: (a) file all required reports and affidavits; (b) receive designation as bargaining representative by a majority of employees; (c) show that at least 30 per cent of the employees in the bargaining unit wish to authorize the union to make a union-security agreement; (d) secure a majority vote of all employees in the unit in favor of such a clause, in a specially conducted NLRB election. Even if the union was able to satisfy all the above requirements and if an employer engaging in interstate commerce was willing to grant the union shop, its inclusion in a collective bargaining contract was prohibited under the Act if the particular state in which the business was located imposed more drastic conditions on union-security clauses or forbade them entirely.¹⁴

The requirement that the union shop could be adopted only after an election supervised by the NLRB, even if both the employer and all employees favored it, was included in the original Taft-Hartley Act because of the concern of Congress that some employees might in the absence of a secret ballot be coerced into accepting the union shop. The union-shop election procedure, however, proved to be a time-consuming and costly formality. Until October 22, 1951, when the Act was amended by the so-called Taft-Humphrey Amendments so as to permit voluntary union-shop contracts without elections, 46,146 union-shop elections were held by the NLRB covering 6,545,001 employees. Three quarters of the employees involved voted in favor of the union shop, and negotiation of union-shop agreements was authorized in 97 per cent of the elections.¹⁵ As a result of the Taft-Humphrey Amendments, union-shop and maintenance-of-membership provisions may now be included in collective bargaining agreements without approval in NLRB elections; closed-shop and preferential-hiring agreements are still banned. Elections will now be ordered by the NLRB with respect to the union shop only when at least 30 per cent of the employees ask to rescind a union's authority to make union-security agreements. If a majority of employees vote to rescind the authority in a deauthorization election, the union will not be entitled to include a union-shop clause in its contracts.

If a labor organization succeeds in winning a union shop, the power of the union officials to dismiss a member from the union and hence from his job is circumscribed by a provision of the Act which makes it illegal for a union or an employer to enforce a union-security clause against

¹⁴ This provision ran counter to the usual principle that state laws are superseded by federal legislation on the same subject matter. The Taft-Hartley Act not only applied the state law but declared further that the state law should apply to employers engaged in interstate commerce, as well as those whose business was purely local.

¹⁵ *Monthly Labor Review*, Vol. LXXVI (August, 1953), p. 837.

anyone for any reason other than nonpayment of dues or initiation fees. This clause was intended to curb the power of labor leaders who were able to stifle opposition by their power to discharge objectors from the union and thus, under a union-shop contract, deprive them of their right to work in the plant. Union officials alleged that such abuses characterized only a few unions, whereas this clause would weaken the disciplinary authority of *all* unions. For example, in a company where there was an established certified union with a union shop, this clause seemed to allow disaffected employees freely to engage in dual union organizing activities without fear of losing their jobs. Labor leaders also alleged that under protection of this clause, antiunion employers would be free to use spies¹⁶ in the plant and inside the union without the union's being able to obtain their discharge.

3. *Refusal to Bargain.* It was made an unfair practice for a union to refuse to bargain collectively with an employer. This provision was directed at those unions which had become so powerful that their "bargaining" activities consisted of presenting demands with a "take it or leave it" attitude.

4. *Illegal Strikes and Boycotts.* It was made an unfair labor practice for a union to engage in or to encourage any strike¹⁷ or refusal by employees to use, manufacture, transport, work, or handle certain goods if any object of such action was any one of the following:

a) *To require an employer or self-employed person to join a union or an employer organization.* The purpose of this clause was to prevent unions from forcing independent businessmen, such as plumbers, bakery deliverymen, and others, to join a union. Congress believed that the economic independence of these groups should be protected, even though their hours of work and earnings might affect the standard of employees who work for hire in the same occupation.

b) *To force the employer or any other person to cease dealing in the products of another employer or to cease doing business with any other person.* This clause was directed at the so-called secondary boycott. If employees in plant A strike to compel employer A to grant higher wages, or to grant a union shop, this involves direct action against the employer primarily involved in the dispute; but if the employees, having

¹⁶ The Senate Civil Liberties Committee reported in 1939 that prior to the Wagner Act, labor espionage was the prevailing pattern of American industry. The Senate Committee found as a sample that of 1,228 Pinkerton labor spies, 331 had infiltrated into unions, and of these at least 100 had held elective offices in unions, one even attaining the position of national vice-president of his union. See Statement of Hon. Elbert Thomas of Utah in United States Senate, April 30, 1947, *Congressional Record*, Vol. XCIII (1947), p. 4403.

¹⁷ The Act defined "strike" to include a concerted stoppage or slowdown.

a grievance against employer A, picket, or induce a strike in company B which uses the products of plant A, then a secondary boycott or secondary action is involved. The Taft-Hartley Act has been construed by the NLRB and the courts to outlaw all types of secondary boycotts. The late Senator Robert Taft, who was a co-author of the Act, stated in 1947 that his Committee heard evidence for weeks on "good" secondary boycotts and "bad" secondary boycotts but "never succeeded in having anyone tell us any difference between different kinds of secondary boycotts. So we broadened the provision dealing with secondary boycotts as to make them [all] an unfair labor practice."¹⁸ Congress not only made the secondary boycott an unfair labor practice but also it directed the NLRB to seek federal court injunctions against its continuance under certain circumstances and furthermore authorized damage suits to be brought in federal court by employers against unions which engage in secondary boycotts. Congress condemned secondary boycotts on the ground that they unduly widen the area of industrial disputes by interrupting the operations of employers only remotely connected with the chief cause of the controversy.

Union leaders objected vehemently to these provisions of the Act. They pointed out that the Act even outlawed such traditional union action as a concerted refusal to handle "scab" products made in a nonunion shop or in a shop in which a strike was in progress. Even where one non-union employer threatened the working standards of an otherwise fully organized industry, a refusal on the part of employees in the organized plants to handle or process goods intended for or coming from the non-union plant would violate the Act.

One of the most difficult problems arising in connection with the ban on secondary boycotts was the determination as to where primary action ended and secondary action began. For example, if a picket line around Plant A in which a labor dispute existed prevented drivers from Employer B from entering and picking up merchandise, was the picket line unlawful because of its effect on employees of Employer B? The NLRB has answered no, since the strike against A is privileged activity, and the repercussions on B are only incidental. But suppose the primary dispute is with a trucking company. Can the employees of that company picket the trucks which they are loading and unloading on the premises of Employer B? This raises the question of the so-called "ambulatory situs"—the trucks are in a sense an extension of the employer's business site. The Board has ruled that such picketing is permissible where it is

¹⁸ *Congressional Record*, Vol. XCIII (1947), p. 4198.

confined to one employer and conducted at the only place where the union could picket effectively.¹⁹

In this circumstance, the picketing was permissible even though it occurred on the premises of a neutral employer; yet in construction industry cases a different result has been reached. Here it is customary for a general contractor and subcontractors to work on the same premises. Suppose employees of the general contractor or union subcontractors picket the premises in protest over another subcontractor using nonunion labor. The Supreme Court has decided that the various contractors are to be treated as independent employers and that such union action aimed at causing one contractor to cease doing business with another constitutes an unlawful secondary boycott.

c) To force or require an employer (including the employer of the strikers) to recognize or bargain with one union if another union is the certified bargaining agent, or to force another employer (not the employer of the strikers) to recognize an uncertified union. This clause was intended to protect employers from strikes by an uncertified union aimed at compelling the employer to deal with it rather than with another union already certified. Under the Wagner Act, many companies found themselves in a disastrous dilemma as a result of rivalry between CIO and AFL unions. If the employer yielded to the pressure of the uncertified union, he violated the Wagner Act and was subject to sanctions for so doing. If he did not yield, his business could be destroyed. He could get no injunction or court relief against the picketing because of the anti-injunction provisions of the Norris-LaGuardia Act.

The dilemma to the employees was as real. Because they had exercised their right of free choice, they stood to lose their jobs through the efforts of the union which they had rejected.

The Teamsters' Union, AFL, which employed picketing as its method, and the International Brotherhood of Electrical Workers of America, AFL, which instituted boycotts through its control of building construction workers, were the principal offenders in attempting to compel disregard of NLRB certifications. The latter, in the last days of the Wagner Act, invoked a nation-wide boycott of the products of the large Westinghouse Electric Company because most of the production workers of the company had chosen to be represented by a rival CIO union. In many cities, this boycott was quite effective because members of the International Brotherhood of Electrical Workers of America controlled all electrical installation and construction work. The attempts on the part of unions to nullify the right of workers to join unions of their own choosing

¹⁹ *Schultz Refrigerated Service, Inc.*, 87 NLRB No. 82 (1949).

were indefensible and completely at variance with the basic principles of the Wagner Act. Such activities were also, of course, part of the basic conflict between the principle of exclusive jurisdiction upon which American unionism had been built and the principle of self-determined organization which the Wagner Act made law.

The Taft-Hartley Act made such strikes illegal and made it mandatory for the NLRB to seek injunctive relief in the courts, if, after a preliminary investigation, there was reason to believe that the union was engaging in a strike prohibited by this section.

d) To force or require an employer to assign particular work to employees in one union or craft, rather than to employees in another union or craft. This clause was intended to outlaw the so-called jurisdictional strike. Such strikes, growing out of controversies as to which craft has the right to perform a particular job, were particularly common in the construction industry and evoked widespread public criticism. As a direct result of the enactment of the Taft-Hartley law, the building-trades unions set up machinery to adjust jurisdictional disputes among the various crafts.

A union which engaged in any of the activities banned in the above four situations committed an unfair labor practice and rendered itself liable in damages to anyone whose business or property was injured as a result of the strike. Moreover, when a charge was filed alleging that a union was engaging in activities under (a), (b), or (c) above, it was made mandatory that the Board seek an injunction against the union, if the Board had reasonable cause to believe the charge was true. In the case of jurisdictional disputes, however, the Board had to hear and decide such cases itself unless within 10 days after the charge had been filed, the parties agreed to voluntary adjustment. The mandatory injunction provision mentioned above did not apply to jurisdictional disputes, but the NLRB could seek an injunction in situations where such relief was appropriate.

5. *Excessive Initiation Fees.* It was made an unfair labor practice for a union which had a union-shop agreement to charge membership fees in an amount which the Board found excessive or discriminatory under all circumstances. Little, if any, effect has been given to this provision.

6. *Featherbedding.* It was made an unfair labor practice for a union to "cause or attempt to cause an employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed." This clause is sometimes referred to as the "antifeatherbed-

ding” provision, but actually its scope is much more limited than the practice of make-work rules which is ordinarily encompassed within the term “featherbedding.” If some work is performed in return for the compensation—even though it is mere standing around during a recorded broadcast—then the statutory requirement of “services which are not performed” is not satisfied, and the provision is not applicable. Thus the Supreme Court ruled that the practice of the International Typographical Union in requiring pay for setting so-called “bogus” type which is not used and the practice of the American Federation of Musicians of requiring pay for “standby orchestras” when outside bands play in local theatres were both lawful under this provision.

Loyalty Affidavit

One of the most controversial provisions of the Act was directed at Communist officers who have been in power in a few American unions. Section 9(b) of the Act disqualified a labor organization both as a bargaining agency and complainant under the Act unless there was on file with the Board an affidavit executed “by each officer of such labor organization and the officers of any national or international labor organization of which it is an affiliate or constituent unit that he is not a member of the Communist Party or affiliated with such party, and that he does not believe in, and is not a member of or supports any organization that believes in or teaches the overthrow of the United States Government by force or by any illegal or unconstitutional methods.”²⁰

This provision evoked considerable criticism, both from unions and other sources, on the ground that it was unconstitutional to discriminate on the basis of membership in the Communist Party when that party was a legal organization entitled to a place on our electoral ballots. However, the Supreme Court settled this issue in 1950 by ruling that Congress had a right to require the oaths to protect the public against the “evils of conduct.” Union spokesmen also argued against the one-sided nature of the affidavit provision which required the loyalty oath from union officers but not from employers.

Some critics questioned whether the most effective method of driving Communists from unions was to deny locals all over the country the protection of the Act simply because one officer in the parent international

²⁰ Settling an issue which was once much debated, the United States Supreme Court in 1951 held that under Section 9(b), the AFL and CIO are “national or international organizations” whose officers must file non-Communist affidavits if their subsidiary organizations are to be permitted to use the processes of the NLRB.

refused to sign the affidavit. Consequently, a number of the largest and strongest unions—among them the United Steelworkers, International Typographical Union, and the United Mine Workers—initially declined, as a matter of principle, to comply with this provision.²¹ Such noncompliance meant that these unions could not seek the aid of the Board in requiring an employer to bargain with them, nor could they be certified in a NLRB election. However, these unions were sufficiently well entrenched in their respective industries so that, by and large, employers did not refuse to bargain with them on the ground of their noncompliance with this affidavit provision.

Noncompliance by many Communist-dominated unions did, however, prove very detrimental to these organizations. The noncomplying United Electrical, Radio and Machine Workers of America and other left-wing unions lost thousands of workers both to AFL-CIO unions, such as the United Automobile Workers, and to other rivals. Severe membership losses were also suffered by the International Union of Mine, Mill and Smelter Workers, the United Farm Equipment and Metal Workers of America, and the United Office and Professional Workers of America, all former left-wing CIO unions. After several defections, the latter two organizations complied technically with the Act by removing officers with direct Communist connections, electing alleged “stooges” in their places, and placing the former officers in appointive jobs which held the real power but which did not come within the purview of the affidavit. This gave these unions access to the NLRB once more.

The loyalty affidavit provision of the Taft-Hartley Act clearly strengthened the hand of non-Communist elements in unions. However, the provision was frequently evaded by use of front men and fellow travelers as we have already observed.

Reports and Financial Accounts

In order to make use of the machinery of the Board, unions were also required to file with the Secretary of Labor copies of their constitutions, bylaws, reports showing salaries of officers above \$5,000, initiation fees, and annual financial statements. Unions are big business, collecting millions of dollars a year in the form of dues and fees. Such safeguards as requiring filing of union financial reports therefore seem desirable. Unfortunately, the unions which do not voluntarily file financial reports are concentrated in the buildings and amusement trades and are so well

²¹ The Steelworkers have since complied with the filing requirements. The United Mine Workers and the International Typographical Union still refuse to file on grounds of principle, although they are strongly anti-Communist in outlook and policy.

entrenched that they have little need to use the NLRB and hence do not have to comply with such provisions.

Restrictions on Political Contributions

The Act made it unlawful for any labor union to make a contribution or expenditure in connection with any election to any federal political office. The prohibition as to contributions corresponded to a similar prohibition applicable to corporations under the Corrupt Practices Act. Addition of the broad term "expenditures," however, in the restriction applicable to unions, raised doubts as to the constitutionality of the provision. The Supreme Court has held that the ban of this section does not apply to expenditure of union funds in publishing the *CIO News* which advised members to vote for certain candidates in a Congressional election.²²

Contributions to Union Welfare Funds

In recent years, health and welfare funds supported in whole or in part by employer contributions have become increasingly popular as a subject of union-management negotiation. Such funds require the collection of very large sums of money. Consequently, Congress felt the need for legislation which would hold union leaders to strict accountability in the administration of such sums. Section 302 of the Act attempted to accomplish this purpose by permitting welfare funds maintained by employer contributions only when the payments are held in trust and the fund is administered jointly by employer and employee representatives, with neutral persons available to settle possible disputes. However, funds in existence prior to January, 1946, were exempted. Furthermore, experience demonstrated that employers evidence little interest in the administration of such joint funds with the result that in some industries corrupt union officials were able to utilize the tremendous sums which build up over a period of time in such funds to their own personal gain. Congressional investigation of the handling of certain of these welfare funds led to such shocking disclosures that it became clear that further legislation would be required in order to conserve and protect such funds against possible abuses.

HOW THE INDIVIDUAL WORKER WAS AFFECTED

A major objective claimed by the framers of the Taft-Hartley Act was to protect individual employees from the arbitrary power wielded by

²² *U.S. v. CIO*, 22 LRRM 2194.

some labor leaders. Consequently, a number of important new privileges were granted to employees, with corresponding limitations on unions, on the theory that the actions of the latter have not always been truly representative of the will of the workers in the collective bargaining unit.

Elections

The Taft-Hartley Act made a number of important changes in election procedure. Under the original Wagner Act procedure, if two or more unions were on the ballot in an election to choose a bargaining representative, the employees voting in a "runoff" election did not have an opportunity to cast a negative vote (i.e., no union) in the runoff, unless the no-union choice had received a plurality of votes cast in the first election. In other words, the employees were limited in the runoff election to a choice between two unions, even though one of these unions might have run in third place. Later, the NLRB changed this procedure by requiring the two highest choices to be placed on the runoff ballot so that the "no-union" choice could appear on the runoff ballot even if it had not received a plurality of votes in the first election. The Taft-Hartley Act made this procedure a matter of law.

The Act also gave employees the right to seek elections to decertify a bargaining representative which no longer represented the majority of workers. In decertification elections held under the Act, the bargaining representative has been decertified in about three out of every four elections, indicating that in many cases, unions, in the course of time, cease to represent the will of the majority of workers.²³

Representation elections still require a major portion of the Board's time. Representation cases filed during fiscal 1956 totaled 8,076, an increase of 12.7 per cent over the 7,165 cases filed in the preceding year. It is interesting to observe that at the same time unfair labor cases, which had reached an all-time high in fiscal 1955, showed a decrease of 14.7 per cent. The increase in representation cases and the decrease in unfair labor cases reversed a trend which had been going on since 1953, i.e., a steady rise in the proportion of unfair labor practice cases in the Board's case load.²⁴

The Taft-Hartley Act also made an important change in the rule governing the right of employees on strike to vote in representation elections. Under the Wagner Act, the Board had ruled that in a strike caused by employer unfair labor practices, only strikers were eligible to vote,

²³ S. H. Slichter, "Revision of the Taft-Hartley Act," *Quarterly Journal of Economics*, Vol. LXVII (May, 1953), p. 160.

²⁴ *Twenty-First Annual Report of National Labor Relations Board*, p. 1.

since they were entitled to reinstatement, whereas in a strike over economic issues, both replacements and strikers were eligible to vote. The Taft-Hartley Act, however, contained a specific provision that "employees on strike who are not entitled to reinstatement shall not be eligible to vote." In an economic strike, the employer has the legal right to fill jobs of strikers with permanent replacements. This provision, therefore, conceivably could enable an antiunion employer to provoke a strike, recruit replacements, and then call for an election. The strikebreakers would elect "representatives," and this would bar an independent effective union from calling an election for a year. This provision was of greatest danger to unions representing relatively unskilled employees who could be easily replaced.²⁵

Ban on Compulsory Checkoff

The Act prohibited the compulsory checkoff, the method by which union dues are deducted by the employer from the worker's wages and paid directly to the union treasury. The checkoff of membership dues was made lawful only where individual employees execute a written assignment of wages for not longer than one year, or for the duration of the applicable union contract, whichever is shorter.

Bargaining Unit Problems

Under the Taft-Hartley Act, as under the Wagner Act, the NLRB continued to be vested with the authority to determine the appropriate bargaining unit. This authority, however, was limited in the case of professional employees, craft workers, and guards.

Professional Employees. Under the Wagner Act, the NLRB customarily excluded professional employees from all bargaining units of production and maintenance workers. The Board based its policy on the fact that professional employees and production workers had no common history of collective bargaining, and that, from the standpoint of education, experience, economic interest, relation to their employer, and method and amount of compensation, there was little, if any, mutuality of interest between the two groups.

When the bargaining unit problems involved professional employees and subprofessional technicians and/or white-collar workers rather than production workers, the policy was somewhat different. In such in-

²⁵ Even under the Taft-Hartley Act, the NLRB continues to allow both strikers and their replacements to vote and segregates any challenged ballots. If the challenged ballots would affect the result of the election, the Board then considers them in the light of the employment status of the individual strikers and their replacements.

stances the Board ruled that its so-called "Globe"²⁶ doctrine applied. In a key case the Board stated: "Upon the entire record we find that the professional employees might properly be considered either as a separate unit or as part of a larger unit composed of professional and nonprofessional employees. Under such circumstances, we apply the principle that the determining factor is the desires of the professional employees. We shall, therefore, direct separate elections in order that we may ascertain the wishes of the professional employees."²⁷

Despite the apparent fairness of this policy, a number of professional associations felt that the NLRB was not giving due consideration to the problems of professional employees. This view, even though based upon a misunderstanding of the NLRB's policies, resulted in a growing demand on the part of various professional agencies for amendment of the Wagner Act.

Such amendment was secured in the Taft-Hartley Act which provided that the NLRB shall not decide that any unit including professional and nonprofessional workers is appropriate for collective bargaining unless a majority of such professional employees vote for inclusion in such unit. In effect, this wrote into law the NLRB's "Globe" doctrine as far as professional employees are concerned.

Craft-Industrial Problems. Under the Wagner Act, one of the most difficult problems faced by the NLRB was the contest between AFL and CIO unions as to whether the appropriate bargaining unit should be a craft or an industrial unit. Such a situation frequently arose in the metal industries, where, for example, a CIO union would ask that all production and maintenance workers be placed in the same unit; but the CIO's petition might be contested by the AFL patternmakers, which might be able to point out that the patternmakers in the plant were actually members of its organization.

In such a case, the Board would consider the claims of both parties, and if it found, upon the basis of all the factors, that the craft could logically lay claim to consideration as a separate bargaining unit, and if there was reasonable doubt as to whether the majority of this craft preferred representation by the craft union, or by the union claiming wider jurisdiction, the NLRB permitted the workers in the craft to determine the issue for themselves. The Board accomplished this by providing that the workers in the craft would have a choice in an election of the craft

²⁶ The "Globe" doctrine, which involves the principle of self-determination by a particular group of employees as to their bargaining unit, is so-called because it was first enunciated in the case of *Globe Stamping and Machine Company*.

²⁷ *Shell Development Co.*, 38 NLRB 196 (1942).

union, the industrial union, or no union, whereas the other production and maintenance workers would vote only for the industrial union or no union. If the craft union won the election among the patternmakers and the industrial union among the other workers, the Board would then divide the plant into two units and certify the craft union as bargaining agent for the craft and industrial union as bargaining agent for the remaining production and maintenance workers. If, however, the industrial union won bargaining rights for both the craft and the other production and maintenance workers, the NLRB would place the craft in the same unit as the other production and maintenance workers and would certify the industrial union as the bargaining agent for the single large unit. Finally, if either group voted for no union, no certification would be issued where the workers did not wish to be represented by a union.

The Board's determination in such cases did not satisfy either the CIO or the AFL. The Taft-Hartley Act sought to settle this issue by writing into law the restriction that the Board may not decide that a craft unit is inappropriate on the ground that an industrial unit had already been established by a prior Board determination, unless a majority of employees in the proposed craft unit vote *against* the craft unit. This clause was criticized by CIO officials who argued that it could be used to permit various splinter craft groups to break off from established industrial unions. These fears proved groundless, however, and in actual practice this provision produced little change in NLRB procedure with regard to representation of skilled crafts. The NLRB wisely interpreted this provision as prohibiting it from using a prior unit determination as the *sole* ground for decision as to the appropriateness of a craft union, but as still giving it discretion to include skilled workers in a larger industrial union where the work of the skilled group is so integrated with that of production workers that a separate unit would be inappropriate. Thus, the Board has allowed severance of traditional crafts not closely integrated with production employees, but it has denied severance of craft units in highly integrated industries such as basic steel, basic aluminum, lumbering, and wet-milling industries. The Board requires that in order to qualify as representative of a craft unit, which is sought to be severed from a larger unit, the proposed bargaining agent either must have traditionally represented the particular craft or must have been organized for the sole and exclusive purpose of representing the specific craft. This rule does not bar the severance of a craft merely because the group seeking severance also includes production and maintenance workers.

Guards. The Act also provided that no union could be certified as a bargaining representative if it included both guards or watchmen and

other employees or was affiliated with an organization which included both groups. This section accepted *in toto* the arguments of employers that the same union should not be permitted to represent both guards and the rank and file. As a result, unions which included both guards and others had to disaffiliate locals of guards, which under the Taft-Hartley Act could be represented only by independent unions, unaffiliated with the AFL or the CIO. This weakened somewhat the union movement among guards.

Discrimination against Minority Groups

The Act provided (Sec. 8a-3) that an employer was not justified in discriminating against an employee for nonmembership in a labor organization if he had reasonable grounds for believing that such membership was not available to the employee on the same terms and conditions generally applicable to other members. At first glance, this appears to mean that a union-shop contract could not be applied to Negro employees unless Negroes were fully and equally admitted with whites to union membership. However, another section (8b-1) provided that a union shall have the right to prescribe its own rules with respect to the acquisition or retention of membership. Moreover, the Conference Report expressly declared that the Act did not disturb arrangements in which Negroes were relegated to an auxiliary local.²⁸ Thus it appears that the Act merely requires a union to apply its admission rules—whatever they might be—uniformly to all applicants. This provision had little or no effect on existing discriminating membership policies of unions.

Other Procedural Safeguards

Among other important rights given to individual employees to strengthen their positions relative to the union was the power to sue the union for damages resulting from an illegal strike. Also, the employee was given the right to present grievances directly to his employer and to have such grievances adjusted without the intervention of the union representative. The adjustment could not be inconsistent with the terms of the collective bargaining agreement, and the union was given the right to have its representative present at the adjustment. Such individual settlements do serve, however, to weaken the union and are not conducive to stable industrial relations.

²⁸ The Conference Report refers specifically to the case of *Larus and Brother Co.*, 62 NLRB 1075 (1945), as an example of an arrangement not disturbed by the Act. Any other interpretation would have alienated Southern Democrats who were among the Taft-Hartley Act's most ardent supporters.

HOW THE PUBLIC WAS AFFECTED BY THE LAW

One of the major reasons for enactment of the Taft-Hartley Act was the general recognition on the part of the public and lawmakers that some means had to be devised to protect the community from stoppages of the flow of essential commodities and services such as characterized the wave of strikes in 1946. The Wagner Act itself had contained no prohibition against strikes of any kind; instead, it provided a peaceful alternative²⁹ to the costly strikes which had been fought over the denial of basic rights of union recognition. In 1937, 60 per cent of the workers on strike were involved in organizational disputes. In 1945, only 22 per cent of the strikers were out on organization strikes.³⁰ Thus the Wagner Act was successful in reducing this particular form of work stoppage. At the same time, however, strikes over economic issues—wages, hours, and working conditions—increased in importance. Moreover, industry-wide bargaining led to walkouts involving an entire industry instead of merely one plant. Thus, the same number of strikes in 1946, as in 1937, produced four times as many man-days lost in the later year. The Taft-Hartley Act attempted by a number of procedures and prohibitions to narrow and restrict the use of the strike weapon by organized labor.

Prohibited Strikes

Certain types of strikes deemed unduly oppressive to employers, and the public were outlawed. These have been considered earlier in this chapter and included secondary strikes and boycotts, jurisdictional disputes, and strikes to upset the certification of a rival union. Any person injured in his business or property as a result of such unlawful strikes could bring suit for damages against the offending union.

Strikes against the federal government were likewise forbidden, and any individual employed by the United States who went on strike was subject to immediate discharge and loss of civil service status. We shall discuss this section in Chapter 26.

Strikes called in violation of no-strike clauses in collective bargaining agreements were not prohibited, but the Act rendered the union liable to the employer for damages due to the breach of contract. It was hoped that imposition of such financial liability upon unions would make for

²⁹ From 1936 to 1945, 10,058,872 employees resorted to the orderly procedures of the Act in 32,615 separate representation cases in order to establish their rights to recognition. *Matter of Packard Motor Car Co.*, 61 NLRB 14 (1945).

³⁰ *Eleventh Annual Report of the National Labor Relations Board* (1946), p. 2, note 1.

stricter observance of such clauses and thus lessen the number of work stoppages.

NATIONAL EMERGENCY STRIKES

Finally, the Taft-Hartley Act established procedures to govern so-called "national emergency" strikes. This procedure, which is discussed in Chapter 24, did not, however, forbid such strikes but merely provided for their postponement.

COOLING-OFF PERIODS

The Act also required that at least 60 days' notice must be given by unions and employers desiring to terminate or modify an existing contract. Within 30 days following such notice, if no agreement had been reached, a second notice was to be given to the Federal Mediation and Conciliation Service and to whatever mediation agency there was within the state.

The difficulties involved in this procedure will be discussed in Chapter 24. Criticism has been directed, in addition, at the sanctions imposed by this section. Employees who walk out in violation of the cooling-off period—the 60 days prior to contract termination—lose their status as employees under the Act and therefore are deprived of any protection against unfair practices by an employer. Thus an employer desiring to get rid of certain union officials might be able to provoke a walkout during the cooling-off period and could then discharge the officials who participated. In contrast to the drastic sanction imposed on employees, an employer who violates this section by locking out his employees during the cooling-off period is subject only to a cease and desist order.

APPRAISAL OF THE TAFT-HARTLEY ACT

Whether the Taft-Hartley Act is a "good" or a "bad" law depends in large measure upon the standard by which it is judged. If it is deemed desirable to afford greater freedom and privileges of self-determination to the individual worker, then it would seem that the Act constituted a rather hesitant advance in labor legislation. On the other hand, if one believes that progressive social policy requires strengthening labor organizations on the theory that all but a few unions are still at a disadvantage in bargaining with employers, then the various restrictions imposed upon the activities of unions appear less desirable.

Standards, therefore, affect one's view of the Act, and such standards frequently reflect the social bias of the individual. However, one standard is at hand which lends itself to a fairly objective appraisal. That is the extent to which the Act facilitated the process of effective collective bargaining.

Ways in Which the Act Encouraged Effective Collective Bargaining

Effective collective bargaining may be defined as bargaining which in general represents the will of the majority of workers. The decertification procedure provided by the Taft-Hartley Act enabled employees to rid themselves of a union which because of corrupt leadership or other causes no longer represented the majority of workers. Likewise, the Communist affidavit requirements may have served to lessen industrial disputes which reflected not the bona fide grievances of workers but rather the planned intrigues of Communist officials. The prohibition against the closed shop and restrictions on the union shop were intended to eliminate practices, such as the selling of jobs through issuance of work permits, which benefited the union bosses rather than the union membership, but these provisions were largely misguided.

Effective collective bargaining assumes also a balance of power between labor and management. Under the Wagner Act, however, the balance of power in some industries had been so turned in labor's favor that individual employers had no choice but to accept the union's demands. The Taft-Hartley Act sought to remedy this situation by imposing an obligation to bargain upon both the union and the employer. Moreover, on the premise that effective collective bargaining requires responsible parties to the agreement, the Act made unions subject to court actions for breach of contract. But this premise ignored the fact that sound industrial relations are not built by running to the courts; and it further ignored the fact that a democratic union cannot be fully responsible for the acts of its members.

Effective collective bargaining assumes that the democratic privilege of self-determination of wages, hours, and working conditions will be reasonably exercised so as not to inconvenience the public by widespread work stoppages. Such union devices as the secondary boycott, jurisdictional strikes, and industry-wide strikes in essential industries unnecessarily burden the public. Therefore the Taft-Hartley Act narrowed the use of the strike weapon within limits deemed consistent with the public interest. By failing to provide an effective mechanism for handling emer-

agency strikes and by outlawing all secondary boycotts, the Act again was not selective in applying restrictive measures.

Ways in Which the Act Impeded Effective Collective Bargaining

Actual experience under the Taft-Hartley Act has thus far been limited to a period during most of which employers were inclined to use with caution the new powers given them by the Act, because of the shortage of labor in the market. Unemployment has been low, unions have been strong, and business prosperous. Therefore, it is necessary to supplement this experience with a consideration of the effect which the Act may well have upon collective bargaining in periods when labor's bargaining power is weakened.

The Act enabled employers to delay peaceful determination of a bargaining representative through the NLRB machinery and therefore encouraged unions to strike to obtain recognition. An employer bent on delaying an election for certification of a bargaining representative could delay proceedings by charging the union with unfair labor practices, and since most organizing campaigns usually involve some "high-pressure" salesmanship by union advocates, a *prima-facie* case of coercion frequently could be made out. Another handy weapon to delay an election which was afforded the employer was to require that the union local prove that every single member of the international to which it belonged had received a copy of its financial report.

The Act was intended to restore the balance of power in collective bargaining relations. But Congress had in mind the circumstances which exist in highly organized industries, without fully recognizing that in some areas organization is still in an incipient state and that in such areas the Act gave an antiunion employer power to prevent the emergence of effective collective bargaining. Particularly potent in this respect were the provisions which guaranteed the employer "free speech," gave him the power to sue a union (and thus weaken it financially) and to charge it with unfair labor practices in organizing. Under other provisions of the Act, an employer could invite a walkout over economic issues and then be free to replace the strikers with nonunion men. The Act stated that the strikers could not vote in an election, but the strikebreakers were given this privilege. Antiunion employers may therefore be able to use a strike over wages to change the bargaining representative in their plants.

Union leaders contend that these provisions have blocked organization of vast numbers of unorganized employees, particularly in the South

and among white-collar workers generally. There is no question that the rate of growth of unions has slowed down in recent years despite continuing prosperity. It is not clear, however, whether the full blame for labor's organizing woes can be put on the Taft-Hartley Act. Unions have already organized most of the large companies of the North. Now their additions to the union fold can come only through the slow and costly process of organizing hundreds of small concerns. Furthermore, the attraction of union organization to white-collar workers, who have traditionally considered themselves in a social class allied with management, is bound to be less than for craft and industrial workers who were organized in the past.

It is in the South, perhaps, that the Act has proved the greatest bar to union organizing efforts. Here workers who perform the same type of jobs as Northern union members have been "persuaded" by employers not to join unions. The "free-speech" clause of the Act, as well as other provisions which we have mentioned, have undoubtedly assisted many companies in the South, particularly in the textile industry, in remaining nonunion.

The Taft-Hartley Act represents a step in the direction of government dictation of the content of collective bargaining agreements. The law tells employers and unions what they can and what they cannot include in contracts with respect to welfare plans, union security, and check-off of dues. While this approach is probably unavoidable if the purpose of the Act to protect employees is to be made effective, in the long run this trend may prove the most dangerous to continuation of voluntary collective bargaining. It is quite likely that in the future, additional safeguards—or restrictions, depending upon one's point of view—will be legislated into union contracts. The result will be government dictation of an increasingly important part of collective bargaining relationships.

The Act used as a sanction in a number of provisions the deprivation of rights under the Act. Thus, for example, employees who struck in violation of the cooling-off period provisions and unions which failed to sign non-Communist affidavits were forbidden to use the machinery of the Board. Obviously, however, these men and these unions would continue to take part in industrial relations, and their unprotected status only invited attacks by antiunion employers. If the objective of the Act was equality between management and unions in collective bargaining, sanctions for enforcement should not have been put in the hands of employers. Such a policy invites industrial unrest rather than compliance with the Act.

THE MOVEMENT FOR REFORM

The Taft-Hartley Act was written largely by men antagonistic to organized labor. The "get-labor" atmosphere produced an emotionally charged bill which made labor unionists fighting mad. The charge that the Taft-Hartley Act was a "slave labor act" was ridiculous, but the fact is that labor leaders reacted as if the charge were true. Both CIO and AFL committed their respective organizations to secure repeal of the Taft-Hartley Act and reinstatement of the Wagner Act.

When President Truman won his surprising victory in 1948, it at first appeared as if the unions would succeed in their objective. Confident that they could gain outright repeal of the Act they rejected twenty-eight changes proposed by Senator Taft which were designed to meet some of labor's principal objections to the Act. The result of labor's adamant stand was that no amendment was forthcoming, except the change made in October, 1951, which eliminated the requirement of holding union-shop elections.

As year after year passed without change in the law and without the dire results materializing which labor predicted would occur under the "Slave Labor Law," leaders of both the CIO and AFL abandoned their all-or-nothing approach and decided to attack the objectionable features of the Taft-Hartley Act through the amendment process. Labor's hopes for reform of the Act rose when President Eisenhower, in his Taft-Hartley Act message delivered to Congress in January, 1954, suggested a number of amendments including elimination of the mandatory requirement for an injunction in secondary boycott cases, exclusion of construction projects from the secondary boycott prohibition, permission for prehiring contracts in industries where employment is intermittent, prohibition of employer petitions for a bargaining election for 4 months after a strike, clarification of the agency rule under the Act so that a union could not be held responsible for an act of an individual member solely because of his membership, and simplification of filing requirements for unions. However, Congress was not in a mood to amend the Act, and no amendments were adopted.

In 1957 the Congressional inquiry into labor racketeering, highlighted by the Dave Beck expose and the disclosure of questionable practices in the teamsters' and bakers' unions, certain of the construction trades, and other unions, created such a hostile public climate that top union officials were reluctant to press for revision of the Taft-Hartley Act because of a fear that any amendments adopted in this charged atmos-

phere would be more likely to harm labor than to help it. As a consequence of the disclosures made in the course of the Congressional inquiry, it appears unlikely that labor will be able to secure Congressional approval of pro-labor amendments of the Act for a number of years.

If amendments are adopted, it seems most likely that they will be "antiunion" in nature and will probably fall into the following two categories:

1. Strengthening of the procedure dealing with national emergency strikes. The ineffectiveness of the present law was vividly demonstrated in the International Longshoremen's Association strike in 1957. That union simply resumed its strike after the 80-day injunction provided by the Taft-Hartley Act had expired. The government was powerless to act and the Board of Inquiry appointed by the President to investigate the strike could not even make recommendations to the President as to appropriate action to be taken with respect to the dispute.

2. Additional requirements for reporting and handling of welfare funds. The Congressional investigations revealed such laxity in the handling of these funds that some regulation by Congress seems assured, either as an amendment of the Taft-Hartley Act or as separate legislation.

QUESTIONS FOR DISCUSSION

1. What is meant by the term "unfair labor practice"? How are charges of unfair labor practices handled by the NLRB? How does the Taft-Hartley Act differ from the Wagner Act in its approach toward unfair labor practices?
2. What provisions of the Taft-Hartley Act do you consider require revision? State your reasons.
3. Discuss the actual and potential effect of the Taft-Hartley Act on collective bargaining.

SUGGESTIONS FOR FURTHER READING

COX, ARCHIBALD. "The Taft-Hartley Act after Six Years," *Proceedings of the Fifth Annual Conference on Industrial Relations*, pp. 5-26. Buffalo: University of Buffalo, April 30, 1953.

A discussion of the need for revision of the Taft-Hartley Act, which is followed by comments of other participants in the *Proceedings* reflecting divergent views.

MILLIS, H. A., and BROWN, E. C. *From Wagner Act to Taft-Hartley*, chap. vii, pp. 234-68. Chicago: University of Chicago Press, 1950.

A review of the weaknesses and accomplishments of the Wagner Act.

SLICHTER, S. H. "Revision of the Taft-Hartley Act," *Quarterly Journal of Economics*, Vol. LXVII (May, 1953), pp. 149-80.

A discussion of the effects of the Taft-Hartley Act and the principal aspects requiring revision.

Chapter 24

THE SETTLEMENT OF LABOR DISPUTES

The government's role in industrial disputes is a result both of the public interest in peaceful settlement and of pressure on the part of labor and management for governmental assistance in settling disputes to their respective satisfactions. Numerous agencies have been established by the federal, state, and municipal governments, but they may be divided into two general categories: regulatory, quasi-judicial bodies such as the National Labor Relations Board, and various state agencies established pursuant to state acts, whose functions are to regulate employer and union conduct and to determine disputes arising over representation questions—i.e., which union, if any, shall represent a certain group of employees; and agencies such as the Federal Mediation and Conciliation Service, and various state and municipal agencies whose job is the settlement by peaceful means of industrial controversies. The first group is engaged primarily in law enforcement; the second is concerned with the adjustment of disputes by mediation, conciliation, or resort to arbitration. The Railway Labor Act, which is discussed in a later portion of this chapter, as well as the Taft-Hartley Act, combine elements of both categories.

CONCILIATION SERVICE

The act of 1913, which created the United States Department of Labor, contained a paragraph authorizing the Secretary of Labor to mediate disputes and to appoint commissioners of conciliation for that purpose. This phase of the Department's work quickly expanded until a special division known as the "United States Conciliation Service" was established in 1917. At its World War II peak, the Service employed 250 persons. Its headquarters was in Washington, D.C., but it established regional offices in the chief industrial centers of the nation. Among its personnel were industrial engineers, who were assigned to assist em-

ployers and unions on controversies involving such technical questions as piecework adjustment. In 1947, it was abolished by the Taft-Hartley Act, and an independent agency, the Federal Mediation and Conciliation Service, whose functions remained basically the same, was substituted for it.

THE WORK OF THE CONCILIATION SERVICE, 1917-47

The United States Conciliation Service regarded as its primary duty the peaceful settlement of labor disputes by informal mediation. The conciliators were available (unless overloaded with work) anywhere in the country within 12 hours after a call for their assistance. Those assigned to the case then usually arranged a meeting, or a series of meetings, with the disputants, at which they attempted to mediate the controversy. These meetings were informal in character, governed by no rules of procedure, and featured by no verbatim transcriptions, nor other marks of the formal judicial process. If the disputes were "hot," or if the conciliator preferred, he could meet with each of the parties separately, either before the joint gatherings, or between such sessions. In this manner, he could more readily learn the difference between what the parties said they wanted, and what they were willing to settle for. Such knowledge, of course, is extremely valuable in narrowing the area of disagreement.¹

Quite frequently, the Conciliation Service was not notified of a labor controversy until a strike or lockout had already occurred. Then the conciliator had the delicate task of attempting to bring about a quick settlement between parties whose nerves, pocketbooks, and positions had already been adversely affected by industrial warfare. In such case, the job is difficult and often impossible until one side or the other, or sometimes both, comes to the realization that concession is less costly than continued strife.

In some cases, the Conciliation Service proffered its assistance without being asked by either party, hoping to avert a strike. Only in relatively few widely publicized, or extremely important cases, however, could the Conciliation Service be expected to know of impending strikes or lockouts. It depended on one of the parties to the dispute, or an interested third party, e.g., a city mayor anxious to avoid a strike in his locality, for prior notice, unless its regional staff could ferret out the information.

It must be stressed that whether it was requested to intervene by an

¹ Howard S. Kaltenborn, *Governmental Adjustment of Labor Disputes* (Chicago: The Foundation Press, 1943), pp. 13-17.

FIGURE 52

DEFINITIONS

MEDIATION AND CONCILIATION are used interchangeably to mean an attempt by a third party, typically a government official, to bring disputants together by persuasion and compromise. The mediator or conciliator is not vested with power to force a settlement.

STRIKE-NOTICE laws require the union and company to notify each other and certain public officials a specified number of days prior to striking or locking out.

STRIKE-VOTE laws require an affirmative vote of either the union members or the employees in the bargaining unit before a strike may be called.

FACT FINDING involves investigation of a dispute by a panel, which issues a report setting forth the causes of a dispute. Usually, but not always, recommendations for settling the dispute are included in the report. Laws requiring fact finding usually provide that the parties maintain the status quo and refrain from strikes or lockouts until a stipulated period after the fact finders' report has been made. Once the procedure has been complied with, however, the parties are free to strike and to lock out.

COMPULSORY ARBITRATION requires the submission of an unsettled labor dispute to a third party or board for determination. Strikes or lockouts are completely forbidden, and the arbitrator's decision is binding on the parties for a stated length of time.

SEIZURE involves temporary state control of a business which is, or threatens to be, shut down by a work stoppage. Strikes or lockouts are forbidden during the period of seizure, which lasts until the threat of work stoppage is abated.

interested party or whether it proffered its assistance, the Conciliation Service could not force itself upon a recalcitrant party. If a union or an employer refused to meet with a conciliator, there was nothing that the Conciliation Service could do about it. It was a completely voluntary agency whose services could be requested or declined at the discretion of an affected party.

THE EFFECTIVENESS OF THE CONCILIATION SERVICE, 1917-47

The effectiveness of the Conciliation Service in reducing labor strife was the subject of much discussion, centering around the following

points: (1) that the statistics reported by the Conciliation Service which purport to demonstrate its effectiveness do not necessarily prove anything; (2) that the Conciliation Service either was or was considered by employers as a labor partisan, and hence was somewhat less effective than might otherwise be the case; and (3) that the Service was handicapped by lack of statutory policy.

As to statistics, during the 30 years of its life, the Conciliation Service handled approximately 45,000 cases. The Service claims that approximately 80-90 per cent were "adjusted satisfactorily." Annual reports of the Department of Labor contain statements similar to the following made in 1941 by Dr. John Steelman, formerly Director of the Service, that "the Service was able to prevent from becoming strikes or lockouts slightly more than 90 per cent of the 2,251 definitely threatened strikes and controversies which were brought to its attention in advance of stoppage action."²

Although these statistics would seem to indicate a very high level of effectiveness, they are subject to many qualifications. In the first place, the mere threat to strike or to lockout may be only a bargaining device which the threatening party has no intention whatsoever of carrying out. Although it is not possible to determine the extent of such cases, they undoubtedly predominate. Strikes and lockouts are costly, and unions and employers, unless immature or inexperienced, are not apt to engage in them without due consideration. In cases of this type, the Conciliation Service has an important duty in easing the way for parties to make concessions without loss of face, and in thus preventing impasses which might have degenerated into prolonged bad feeling or even into stoppages.

The statistics of the Conciliation Service also fail to account for the qualitative factor in labor peace. A strike of 10 dishwashers and one of 500,000 bituminous coal miners or a dispute amicably disposed of involving these two groups cannot be differentiated by the Service's figures despite the relative indifference to the public as to what occurs in one case and the great interest of the public in the other.

Finally, many cases listed by the Conciliation Service as "satisfactorily adjusted" may have been settled by the parties without outside help or referred to another agency, such as the National Labor Relations Board, which actually achieved the settlement.

The Department of Labor was created as a consequence of agitation by trade-unions, and its secretaries from 1913 to 1933 were all former

² *Twenty-Ninth Annual Report of the Secretary of Labor* (Washington, D.C.: U.S. Department of Labor, 1941), p. 19.

union officials. In his second annual report, the first Secretary of Labor stated: "Primarily the Department of Labor must conserve in industrial disputes the interests of the wage earners of the United States."³ Since then, the Conciliation Service has been often charged with being a labor partisan.

The creation of the Conciliation Service as a separate division within the Department helped toward furthering an impartial atmosphere, but did not sufficiently overcome the earlier partisan approach to the satisfaction of leading employers, who continued to regard anything connected with the Department of Labor as under union influence. Moreover, during the 1920's especially, and during recent years as well, a large number of Conciliation Service mediators were drawn from the ranks of unions. The Conciliation Service defended this practice on the ground that the only available experienced, qualified men have partisan backgrounds and that previous partisanship does not prevent impartiality or competence.⁴ There is considerable truth in the arguments of the Service, but large sectors of business remained decidedly unconvinced.

Because of the belief that any mediation agency connected with the Department of Labor will necessarily be regarded as a labor partisan, many observers recommended that the Conciliation Service be removed from the Department of Labor and set up as an independent agency. Those expressing this opinion believed that such a change would give the Conciliation Service the impartial atmosphere which benefits it.⁵

In other quarters, however, this position was less favorably regarded. The war witnessed the mushroom growth of an unparalleled number of agencies which dealt with various aspects of labor problems without either cohesion or central direction, and as a result, often at cross purposes. The then Secretary of Labor, Mr. Schwollenbach, undertook to bring these labor agencies within his Department and to streamline them in order to avoid duplication, waste, and diversity of policy. And the 1946 Labor-Management Conference proposed that the Conciliation Service be kept within the Department of Labor but that steps be taken to strengthen it.

Finally, there is the charge that the Conciliation Service was hindered by the lack of a definite statutory policy. Usually the advocates of this allegation make plain their belief that the Service should be re-

³ *Second Annual Report of the Secretary of Labor* (Washington, D.C.: U.S. Department of Labor, 1914), p. 21.

⁴ *Second Annual Report of the Secretary of Labor* (Washington, D.C.: U.S. Department of Labor, 1941), p. 47.

⁵ Kaltenborn, *op. cit.*, pp. 24-27; and A. L. Bernheim and D. Van Dorn (eds.), *Labor and the Government* (New York: Twentieth Century Fund, Inc., 1935), pp. 349-50.

vamped and made a three-man board, guided by a law similar to the Railway Labor Act which would declare that it was public policy to encourage peaceful settlement of labor disputes and written labor agreements.⁶ Those who held this opinion usually believed that the Railway Labor Act has been much more successful than has actually been the case.⁷ They also had greater faith in mere statutory pronouncements than is warranted. By and large, however, critics of the Conciliation Service prevailed over its advocates in 1947 when the Taft-Hartley law was enacted.

THE CONCILIATION SERVICE UNDER THE TAFT-HARTLEY ACT

In the early postwar period, Secretary of Labor Schwollenbach made valiant attempts to improve the Conciliation Service. A labor-management committee was appointed to supervise reorganization. A new director, Edgar Warren, brought in many new conciliators from the War Labor Board which gave the organization a new and improved look. Industry and labor spokesmen joined in praising the results—one of the few concrete agreements of President Truman's ill-fated Labor-Management Conference of 1946.

Congress, however, did not accept these changes. The Conciliation Service was abolished by the Taft-Hartley Act and its personnel transferred to a new independent agency, the Federal Mediation and Conciliation Service. The immediate effect on the Service was to undo most of the improvements made under Mr. Warren. He resigned, as did most of his key personnel. The new Federal Mediation and Conciliation Service also abolished the Technical Division of its predecessor agency. Thus, it commenced operations with a staff of experienced conciliators, but most of them were not top-drawer personnel.

The Taft-Hartley Act provided for a single director of the new Service with a salary of \$12,000. The man selected for the job by President Truman, Cyrus Ching, veteran labor relations head of the United States Rubber Company, had the respect of both labor and industry. He soon put the Service back on its feet. There is no evidence that since 1947, the Federal Mediation and Conciliation Service has not been doing at least as good a job as it did before then, and it may be doing a better one, chiefly because it now pays more adequate salaries and can draw a higher-grade personnel. Mr. Ching was succeeded as director by David Cole, who in turn was succeeded by Whitley McCoy, who was succeeded by

⁶ Kaltenborn, *op. cit.*, pp. 30–32.

⁷ See pp 739–43.

James Finnegan. These gentlemen all have had excellent reputations as mediators and arbitrators before their appointments. This did much to maintain the respect of labor and management for the Service.

In establishing a separate Conciliation and Mediation Service, the Taft-Hartley Act gave the Service the statutory base which it previously lacked. In addition, Section 201 of the Taft-Hartley Act set forth the policy of the federal government as the peaceful settlement of labor disputes by collective bargaining; Section 203 directed the Service to minimize work stoppages by mediation and encouragement of voluntary arbitration; Section 204 admonished labor and industry to co-operate fully with the efforts of the Service to settle strikes; and Section 205 established a labor-management advisory panel for the Service similar to the one voluntarily set up under Warren's directorship. Finally, Section 8(*d*) of the Taft-Hartley Act required labor and management to notify each other of intent to modify a collective agreement at least 60 days prior to the termination date of the agreement and to notify the Service and any appropriate state agency 30 days later if no agreement had been reached.

Whether these Taft-Hartley provisions aided the work of the Service is debatable. Mr. Ching claimed that his independent agency was more acceptable to industry than was its Department of Labor predecessor. If correct, this may have been as much due to industry's confidence in Mr. Ching as anything else. In any case, the Federal Mediation and Conciliation Service appears today to have the confidence of both labor and industry, a necessary element for it to continue to foster industrial peace.

STATE AND MUNICIPAL ADJUSTMENT MACHINERY

State Mediation Agencies

In 1878, Maryland passed an arbitration and conciliation law, and by 1900 similar legislation had been enacted by twenty-five states. In the ensuing decades, however, most of these laws either were repealed or were ignored. As late as 1932, Professor Edwin E. Witte found that only New York, Pennsylvania, and Massachusetts had been active in the adjustment of labor disputes continuously since 1900, and that except in these three states there was not "a single state employee devoting full time to mediation in labor disputes."⁸ This has changed since 1933. Today all but a half dozen states have provisions in their laws for the adjustment of labor disputes.

⁸ Edwin E. Witte, *The Government in Labor Disputes* (New York: McGraw-Hill Book Co., Inc., 1932), pp. 252-53.

In only a few of the states is the adjustment of labor disputes made a full-time job. Nor is that surprising. In many states, there would not be enough work to keep even a single conciliator, let alone a board or commission, occupied. Other states prefer to leave adjustment work to the Federal Mediation and Conciliation Service, with such assistance from the state industrial commissioner, or the state department of labor, as can be rendered by such an agency, which is usually overburdened with work as well as underbudgeted, and which also rarely has qualified mediators on its staff. The states which, in contrast to the general rule, are most active in the adjustment of labor disputes are Connecticut, Massachusetts, Michigan, Minnesota, New Jersey, New York, Pennsylvania, California, and Wisconsin. In all these states, a special agency devotes full time to the job. Since space limitations preclude analysis of the experience of all state agencies, a short discussion of the New York State Board of Mediation will serve to highlight the problem of state mediation agencies.

The New York State Board of Mediation

Since 1886, New York has had official state machinery devoted to the settlement of industrial disputes. Various agencies were created and functioned with limited funds and not too much success until 1937 when the New York State Board of Mediation was created.

The New York State Board is composed of five members, one of whom acts as chairman. The Board's main office is in New York City, but it has established branch offices in other parts of the state. Its staff of mediators are available anywhere within the state on short notice.

Like the Federal Mediation and Conciliation Service, the New York Board is a voluntary body. It is either asked to enter a controversy, or it may proffer its services, but it has no authority to compel the acceptance of its services. Unlike the Conciliation Service, it is empowered to hold public hearings and to subpoena witnesses, but its subpoena powers do not become effective until after a party has voluntarily accepted its services.

If the New York Board fails to settle a case, it may certify that fact to the State Industrial Commissioner, who may at his discretion appoint an *ad hoc* emergency fact-finding board to consider the dispute and make a report to the Commissioner, which may be made public. The New York Board has rarely followed this procedure, preferring to maintain its voluntary method.

Few state agencies, if any, have been involved in so many and so important labor disputes with such a good record of averting strikes as

the New York Board. No little of the Board's success may be attributed to its personnel, which has included William H. Davis and Arthur Meyer among others. Both Messrs. Davis and Meyer have not depended on the New York Board for their main source of income, however; if they had not been able to contribute the major share of their services, it is very doubtful if they, or men of their caliber, would be available to the New York Board.

The relations of state mediation agencies with the Conciliation Service have not always been as cordial as their work necessitates. For example, in New York, till recently a strike might find representatives of both the New York State Board of Mediation and the Conciliation Service on hand, with each anxious to achieve credit for terminating the stoppage, and competing, rather than co-operating, to that end. Such agency jurisdictional disputes obviously retard peaceful settlement and should not be permitted to exist.

Fortunately, relations between the Conciliation Service and the various state agencies have now improved. In Pennsylvania, co-operation was pioneered by an agreement whereby all strikes or threatened dispute notices received by either the Conciliation Service or the state agency are transmitted to the other, and the agency which can first reach the scene, or act most effectively, whether state or federal, assumes sole charge. In New York and New Jersey, an excellent wartime arrangement was worked out between the Conciliation Service and the two state mediation boards, whereby the Conciliation Service in effect permitted these state agencies to certify cases to the War Labor Board. This permitted the agencies to continue their work and to relieve the overworked Conciliation Service during a period when otherwise they would have been rendered useless. And co-operation between the federal service and state agencies was encouraged in the postwar period by two provisions in the Taft-Hartley Act which (1) required that dispute notices be sent to state agencies as well as to the federal service; and (2) stipulated that the federal agency avoid intervention in any dispute having only a minor effect on commerce if a state agency's service was available. By 1948 the Federal Mediation and Conciliation Service had agreements with nearly all active state agencies, outlining jurisdictions and formulating a policy of co-operation.

Municipal Adjustment Agencies

A number of municipalities have at one time or another established machinery for the adjustment of labor disputes. Most have depended upon the volunteer services of public-spirited citizens and have ceased to

exist after these citizens retired. Their success has been varied. Experienced mediators have not been available to municipalities, and inexperienced ones have frequently done more harm than good. Strikes which occur on the outskirts of a city, or in its suburbs, may vitally affect a city, yet be outside the jurisdiction of its adjustment agency. And if state and federal agencies are already in operation, the intrusion of a municipal board may only complicate matters.⁹

The three cities which have been most active in the settlement of labor disputes in recent years have been New York City, Newark, N.J., and Toledo, Ohio. In New York City, the mayor maintained a labor relations secretary whose time has been devoted to mediation since 1937, when the New York City Industrial Relations Board was abolished and the New York State Board of Mediation created. The labor relations secretary acted only after checking with the State Board and the U.S. Conciliation Service. For the most part, it appears that the duty of the Secretary was to make the interest of New York's mayor in labor peace known to the disputing parties in the hope that settlement would thereby be encouraged.¹⁰

In 1947, New York City reorganized its labor staff and established a labor management panel to aid in settling labor disputes. Mediation by the City is now conducted either by the labor secretary or, if he fails, by a tripartite panel.

The boards of Toledo and Newark both resulted from the failure of states to establish effective machinery to service highly industrial cities. In both cities these boards had considerable success in maintaining peace. Both agencies, however, ceased to function during the war. The Newark Board went out of existence in 1941, after the creation of the New Jersey State Mediation Board, and the work of the Toledo agency was largely taken over by the Conciliation Service and the War Labor Board. After World War II, however, Toledo reorganized its board, and it is now again active. In addition, Louisville, Kentucky, established an adjustment agency in 1947.

RAILWAY LABOR ADJUSTMENT MACHINERY

The railway industry has served as an experimental laboratory for public control of labor relations. The strategic position of the railway industry in the American economy and the consequent inconvenience to the

⁹ W. L. Nunn, "Local Progress in Labor Peace," *National Municipal Review*, Vol. XXIX (December, 1940), pp. 784, 791.

¹⁰ Kaltenborn, *op. cit.*, pp. 205-8.

public if railway service is interrupted; the rapid rise of the railway train and engine service brotherhoods to economic and political prominence; and the early recognition by the judiciary that Congress had the right to regulate railroads, all led to agitation for federal intervention in railway labor matters. Beginning in 1888, a series of laws were enacted as Congress groped for methods of preventing strikes which interfered with interstate commerce. Early railway labor legislation, particularly the Erdman Act of 1898, which provided for mediation and voluntary arbitration, and which also outlawed the "yellow-dog" contract and discrimination against employees for union activity, contained the basic ideas which were later incorporated into the Norris-LaGuardia and National Labor Relations Acts, as well as in the Amended Railway Labor Act of 1934, the basic law governing railway labor relations today.

The Railway Labor Act

The Railway Labor Act makes it the duty of labor and management to exert every reasonable effort to "make and maintain agreements concerning rates of pay and working conditions" and to attempt to adjust all differences by peaceful methods. A three-man, nonpartisan National Mediation Board then attempts mediation if the parties cannot agree among themselves. The Board is further instructed to urge voluntary arbitration if mediation proves unsuccessful. If arbitration is refused and the dispute is such as "substantially to interrupt interstate commerce," the Board is instructed to notify the President, who can create a special emergency board to investigate and publish findings. During the pendency of these various proceedings and until 30 days after the report of the emergency board, neither party may alter "the conditions out of which the dispute arose," except by mutual agreement. The parties, however, are under no legal obligation to accept the recommendations of the emergency board, and strikes or lockouts are permissible after the waiting period has expired.

An unique aspect of the Railway Labor Act is the requirement for compulsory arbitration of grievances and of other disputes arising out of the interpretation of agreements. The agency charged with this task is the National Railroad Adjustment Board. This Board is a bipartisan agency composed of thirty-six members, half of whom are paid and compensated by the carriers and half by unions "national in scope." (Thus smaller organizations of workers have no representation on the Adjustment Board.) The work of the Adjustment Board is divided into four

divisions each of which has jurisdiction over certain crafts. If a division deadlocks, referees are appointed by the National Mediation Board or by the division if it can agree on a selection.¹¹

The Railway Labor Act also provides elaborate safeguards for the free choice of employee representatives by setting forth a list of unfair labor practices similar to those contained in the National Labor Relations Act prior to the Taft-Hartley amendments. Enforcement is, however, different from that under the National Labor Relations Act in that violations are punishable by criminal penalties, and prosecution is under the jurisdiction of the Department of Justice. Because of the difficulties of proving willful intent to commit an unfair labor practice before a jury, there have never been any convictions and only one trial for unfair labor practices. However, railway unions have successfully brought a number of injunctive actions to force employers to cease and desist from alleged unfair labor practices.¹²

Until 1951 the Railway Labor Act prohibited all types of union-security and checkoff agreements. This prohibition was placed in the Act in 1934 to prevent company unions from obtaining union security and automatic dues support from reluctant workers, and it had the support of the so-called standard unions. By 1951 the company unions had been ousted by defeats in representation elections, and the standard unions were able to persuade Congress to legalize union-security and checkoff provisions. Unlike the Taft-Hartley Act, the Railway Labor Act provides no machinery for decertifying unions or for voting out union-security provisions.

The Railway Labor Act also provides formal machinery for the selection of employee representatives. The National Mediation Board is required to make determinations in this regard and usually does so by representation elections. The bargaining unit under the Railway Labor Act is limited to a "craft or class," but the National Mediation Board has wide discretion in determining the definition of craft or class and in determining voting eligibility in representation elections.¹³

In 1936, the Railway Labor Act was extended to cover air transportation.

¹¹ For an analysis of the Adjustment Board, see H. R. Northrup and M. L. Kahn, "Railroad Grievance Machinery: A Critical Analysis," *Industrial and Labor Relations Review*, Vol. V (April and July, 1952), pp. 365-82, 540-59.

¹² See H. R. Northrup, "Unfair Labor Practice Prevention under the Railway Labor Act," *Industrial and Labor Relations Review*, Vol. III (April, 1950), pp. 323-40.

¹³ See H. R. Northrup, "The Appropriate Bargaining Unit Question under the Railway Labor Act," *Quarterly Journal of Economics*, Vol. LX (February, 1946), pp. 250-69.

Analysis of the Railway Labor Act's Dispute Procedure

Prior to World War II, the Railway Labor Act was hailed as a "model law," and frequent suggestions were made to enact similar legislation for industry generally. Since 1940, however, a number of strikes or near strikes, which were only averted by Presidential action outside the procedures of the Railway Labor Act, have caused many former advocates of the "model-law" concept to take a second and deeper look at the Railway Labor Act and to raise some doubts concerning the advisability of enacting further legislation on the model of the Railway Labor Act.

What happened during and after World War II was that when the railroad unions were dissatisfied with a recommendation of an emergency board, they were able to induce both Presidents Roosevelt and Truman to intervene in their behalf and to obtain through this political intervention a more favorable settlement.¹⁴ These wartime developments should not, of course, be surprising. The Railway Labor Act was conceived by the railway unions, and its adoption into law—particularly the 1934 amendments—stands as testimony to their political power. What could be more logical than the further use of political power by these unions to achieve their desired ends whenever the procedures of the act fail to do so?

As a matter of fact, governmental labor machinery, whether "pro-labor" such as the Railway Labor Act, or "antilabor" like the Taft-Hartley Act, is not only generally the consequence of organized labor's political power but also it ensures continued labor activity in the political field. Labor leaders cannot afford many adverse decisions from government tribunals without seriously endangering their positions within the union. They have been selected to produce results. If they fail, their constituents will replace them with aspirants who promise success where their predecessors have failed. Hence, labor leaders must seek to prevent the appointment of unfriendly or even neutral persons to key administrative posts, and they must keep up an unending pressure on government labor agencies. In short, union leaders must develop political machines capable of decisive action in enough instances so as to command the respect of elected and appointed officials. These facts have been well-known to the conservative leaders of the railway unions as was pointed out in Chapter 2.

Does this mean that when labor's good friends are no longer in the

¹⁴ For a history of these disputes, see H. R. Northrup, "The Railway Labor Act and Railway Labor Disputes in Wartime," *American Economic Review*, Vol. XXXVI (June, 1946), pp. 324-43.

White House, the Railway Labor Act will function more as intended? That could occur. But there is another aspect to the problem which makes it at least doubtful. The procedure of the Railway Labor Act, which is supposed to supplement collective bargaining, has been used as a substitute for collective bargaining. Because they know that an important dispute is likely to end up before an emergency board, railway labor and management have just gone through the motions of bargaining until the emergency board hearings took place. Thus the comment of the emergency board in the 1948 wage and rules cases:

The board was not asked, on this conversion rule issue, to resolve a question of principle. It was made, instead, the target for a barrage of conflicting arguments about a lot of little details. We were asked to find the answers to all these quibbles in a mass of evidence and testimony which covered 230 pages of exhibits and 150 pages in the record. This was to be done, within a 2-week period, as 1 little piece of a job which included the disposition of 36 other issues on the basis of well over 12,000 pages of testimony and exhibits.¹⁵

Such a development is probably inevitable and did not change during the Eisenhower administration. It is the easy way out for the parties to let someone else make the decision for them. In that way they avoid the responsibility, and under the emergency board procedure, still remain free to act if the board's recommendation is unsatisfactory.

It is, moreover, not practical to assume that any strict limit can be kept on the number of emergency boards which are to be appointed. As long as emergency board procedure is available, one side or the other will create the "emergencies" if the possibility of gaining a better settlement exists. When that occurs, the pressure on the President, or whoever must appoint such boards, from well-meaning citizens and newspaper headlines to prevent the "emergency" plus added pressure from labor or industry to aid the emergency creator usually results in the appointment of a board, the establishment of a precedent, and an ever increasing number of "emergencies" and boards. In addition to railway labor experience, ample evidence to support this analysis is found in our war labor history, as well as in the experience of other countries which have utilized similar machinery.¹⁶

WARTIME ADJUSTMENT MACHINERY

In peacetime, strikes are costly, but the alternative, once mediation or persuasion has failed, is government direction in place of free collec-

¹⁵ *Report of the Emergency Board in re [certain Railroads] . . . and the Brotherhood of Locomotive Engineers et al.*, 1948.

¹⁶ See B. M. Stewart and W. J. Couper, *Fact Finding in Industrial Disputes* (New York: Industrial Relations Counselors, 1946); and pp. 744 ff. of this text.

tive bargaining. In wartime, however, no industrial strife can be tolerated. During both World War I and World War II, therefore, compulsion substituted for voluntarism in the settlement of labor disputes. To lessen the degree of compulsion, prominent roles in wartime adjustment machinery were given to representatives of labor and industry. Nonetheless the factor of compulsion remained, and the difficulty of restoring voluntary collective bargaining after compulsory controls are lifted is well illustrated by the great strike waves of both 1919–20 and 1945–46. Moreover, the principles and precedents developed by war labor agencies are likely to have permanent influence on peacetime policy.

The World War I Labor Board

The industrial strains created by World War I—higher prices, expanding industry, and labor shortages—caused considerable unrest and strife even before the United States entered the conflict. To devise remedies, President Wilson called a conference of labor and industrial leaders to formulate a national industrial relations policy. The conference, after 10 weeks' deliberation, agreed on an eight-point program including a pledge of no strikes or lockouts, the freedom of workers to organize and bargain collectively, and the maintenance of the status quo on the question of the closed and the open shop. To effectuate these policies the National War Labor Board of World War I was created in April, 1918. The Board was composed of five industry, five labor, and two public members.¹⁷

The World War I Board was in existence for approximately one year. Although its guiding rule was the maintenance of the status quo in industrial relations generally, it had the effect of encouraging unionism and collective bargaining. Through it, the American Federation of Labor won official government recognition on a par with employers associations; and through it peaceful collective bargaining was encouraged.¹⁸

The World War I Board was able to settle all cases referred to it with the exception of three or four, which were referred to President Wilson, who as a means of enforcing the Board's awards either took over plants or threatened to draft workers and bar them from war jobs. In

¹⁷ For a discussion of the World War I experience, see Alexander Bing, *War-Time Labor Disputes and Their Adjustment* (New York: E. P. Dutton & Co., 1921); and *National War Labor Board*, Bulletin No. 287 (Washington, D.C.: U.S. Bureau of Labor Statistics, 1922).

¹⁸ The World War I Board also pioneered in such questions as representation elections, appropriate bargaining unit, majority rule, etc., and thus established precedents for various NRA boards and the National Labor Relations Board.

view of the national emergency, labor and management generally showed a patriotic willingness to abide by the Board's awards.

In addition to its National War Labor Board, World War I saw the creation of several industry boards in industries which the federal government either took over directly or which were considered extremely crucial for the prosecution of the war. They included the U.S. Railroad Administration, the Shipbuilding Labor Adjustment Board,¹⁹ the Emergency (building) Construction Wage Commission, the National (long-shore) Adjustment Commission, and the Arsenal and Navy Yard Wage Commission among others. On each, the AFL was granted official recognition, and peaceful collective bargaining was encouraged. Most of these special adjustment agencies were created prior to the World War I Labor Board. After the latter was established, appeal was provided to it from decisions of the industry agencies. An exception was railway labor relations, which were under the exclusive supervision of the director-general of the railroad since the government took over railroad operation during the war.

With the end of the war, strikes flared up throughout the country. At the height of the strike wave, President Wilson convened a National Industrial Conference, composed of labor, industry, and public groups to formulate principles for a "genuine and lasting co-operation between capital and labor." The conference broke down on the issue of union recognition. Moreover, both industry and AFL were extremely wary of government-supervised collective bargaining and, unlike the situation on the railways, did not want it continued. Hence the World War I Labor Board had no immediate peacetime successor.

The National Defense Mediation Board

As the defense program got under way in 1940, strikes in crucial industries gave rise to increasing concern. By early 1941, it became apparent that emergency measures were necessary to cope with the situation. On March 19, 1941, President Roosevelt created the National Defense Mediation Board to adjust labor disputes in defense industries. The Mediation Board was tripartite in character, composed of four industry, four labor, and three public members, with alternates from all three groups. The labor representations were equally divided between the American Federation of Labor and the Congress of Industrial Organizations. Disputes could be heard by the board only after the Secretary of Labor had

¹⁹ For a discussion of the work of this agency, a typical wartime board, see W. E. Hotchkiss and H. R. Seager, *History of the Shipbuilding Labor Adjustment Board*, Bulletin No. 283 (Washington, D.C.: U.S. Bureau of Labor Statistics, 1921).

certified that the United States Conciliation Service had been unable to settle them. "Three steps were set forth in the executive order for the Board to follow in settling these controversies: (1) Mediation in promoting collective bargaining between the parties before the Board; (2) if this fails, suggestion of voluntary arbitration; and (3) if both of these fail, findings of fact and recommendations, which may be made public."²⁰

Thus the Defense Mediation Board was instructed, in effect, to follow a procedure similar to that of the Railway Labor Act, except that all steps were to be undertaken by one agency, which was tripartite in character.

Early in its career, the Defense Mediation Board settled several very difficult strikes by mediation, but soon its procedure partook of compulsion. If it failed to mediate a case, it issued public recommendations. These recommendations carried with them threats of government seizure if either party refused to accept them, and a stoppage resulted. Three such seizures occurred during the Board's 9 months' existence.

The most troublesome question which faced the Defense Mediation Board—and the one which led to its downfall—was that of union security. The board attempted to solve this question by "maintenance of membership," thus setting the stage for the policy of its successor agency, the National War Labor Board. Industry generally opposed union maintenance, however, and when the Defense Mediation Board declined to go further and grant the all union shop in the captive mines case, the CIO members resigned, and the Board collapsed.

The National War Labor Board of World War II

The collapse of the Defense Mediation Board was followed shortly by the Japanese attack on Pearl Harbor. To provide for the peaceful settlement of wartime labor disputes, President Roosevelt followed Wilson's example and convened a management-labor conference. The conference agreed to settle disputes without resort to strikes and recommended the establishment of machinery for that purpose. Management delegates wished to have union-security provisions frozen for the duration, but in effect the President accepted labor's view by committing all disputed questions to the wartime settlement machinery.

On January 12, 1942, the National War Labor Board of World War II was established by executive order. In June, 1943, it was given statutory backing by the War Labor Disputes Act, passed by Congress

²⁰ L. J. Jaffe and W. G. Rice, Jr., *Report on the Work of the National Defense Mediation Board*, Bulletin No. 714 (Washington, D.C.: U.S. Bureau of Labor Statistics, 1942), p. 1.

over the President's veto. The previous October it had been assigned wage control under the Stabilization Act. To aid in administering its functions the WLB also established thirteen regional boards and several industry commissions. Its jurisdiction included virtually all American industry, except rail and air carriers subject to the Railway Labor Act.

Peaceful Settlement. The War Labor Board initially attempted to decide each industrial dispute case on its merits. Gradually, however, it developed official policies on virtually every issue under dispute between the parties. It attempted to maintain peace in settling disputes, as a careful student of War Labor Board policy has noted, by using three basic approaches: (1) appeal to the legal framework governing industrial relations in wartime; (2) appeal to historical precedent, whenever possible; and (3) compromise.

The WLB used the "legal framework" method most frequently in wage cases. The Stabilization Act and the executive orders issued thereunder set forth the law. Hence when a proposed increase exceeded the Little Steel Formula, the War Labor Board had merely to cite a higher authority as the basis of its decision.

The WLB used historical precedent in refusing to disturb North-South wage differentials, or historical differentials between two plants of the same company located in different parts of the country, or even local differentials between two neighboring plants. Likewise, the WLB refused to alter union or closed-shop contracts voluntarily agreed to by management.

When the WLB had neither law nor historical precedent to guide it, compromise always remained. The best example is, of course, found in the issue of union security. The principle of maintenance of membership is an obvious compromise between the closed and the open shop. Likewise, compromise guided the War Labor Board when it acceded to unions' demands for such "fringe" issues as paid vacations, paid holidays, and night-shift bonuses, but denied demands for paid sick leave and compulsory health and welfare funds.

The Stabilization of Wages. Since changes in wages invariably affect industrial relations, the stabilization duties of the War Labor Board were closely interrelated with its job of maintaining industrial peace.

Unfortunately, wage stabilization was not only related to peaceful labor relations, it often worked at cross purposes with it. The denial of a voluntary application for wage increases, jointly submitted by an employer and a union, usually caused unrest in a plant, and sometimes a work stoppage. Such stoppages were directed not against employers but against the War Labor Board.

Because of this conflict between wage stabilization and labor peace at a time when the latter was considered paramount, compromise was often permitted to weaken stabilization. For example, when the 17 per cent per hour general increase demand of the CIO Steelworkers was denied, a variety of fringe issues such as improved vacations, night-shift bonuses, and the elimination of interplant inequities was used to mollify the union. In sum, stabilization was made flexible to suit the immediate needs of labor peace. Nevertheless, wages were fairly well stabilized.

The Heritage of the War Labor Board. The National War Labor Board of World War II rendered decisions for all industry on every conceivable aspect of industrial relations. Its decisions still serve as a guide for rulings in labor disputes. The WLB established the historical precedents and the legal framework for arbitrators to follow, and both labor and management now turn to the WLB's rulings for precedents in solving disputed questions. And this will continue to be true, whether the War Labor Board's decisions have been "sound" or not, primarily because the scope of such decisions includes all industry and all phases of industrial relations.

Likewise War Labor Board decisions have furthered certain labor goals which have been increasingly prominent in recent years. They include the following: (1) that a "responsible" union deserves union security; (2) that paid vacations, paid holidays, paid sick leave, group health insurance, night-shift bonuses, and other benefit issues are proper union objectives; (3) that unions should have a voice in the establishment of benefit plans and that such plans are a proper sphere of collective bargaining; (4) that wage rate structures should be simplified so as to eliminate interplant differences; and (5) that similar occupations in neighboring areas should be similarly compensated.

The effect of the War Labor Board on postwar labor relations was felt in still another important manner. After 4 years of setting terms and conditions of employment, the federal government found it difficult to retire from the field because large sections of management and labor found it difficult to return to collective bargaining. Moreover, many unions and many employers were anxious to "teach the other a lesson." This, combined with the pent-up resentment of wartime, did much to make 1946 the greatest strike year of American history in terms of man-days lost from work.

Both labor and management were surprised at the duration of some of the 1946 strikes. During the war, such strikes as occurred were short "quickies." The emphasis was on uninterrupted production to the exclusion of all else. Union leaders found in the postwar period that manage-

ment resistance was much greater, particularly when loss of business was compensated for by rebates of wartime excess profits taxes. On the other hand, those employers who felt that unions could not survive postwar strife miscalculated badly. One result of the postwar strike wave was a more realistic appraisal of the effectiveness, costs, and results of strikes on the part of both labor and management.

Another wartime heritage to which the 1946 strikes gave sharp emphasis was the increasing public concern with stoppages of work which interfered with "essential" services or even inconvenienced a portion of the population. Wartime hysteria over strikers was carried over into the postwar period. Moreover, a number of unions exhibited unparalleled irresponsibility and lack of understanding of public sentiment in striking essential services. One result was the election of a Congress with a Republican majority in 1946, which enacted the Taft-Hartley law; and another result was an increasing concern of state legislatures with "emergency" labor settlement machinery.

THE TAFT-HARTLEY ACT AND NATIONAL EMERGENCIES

Between the end of World War II and the passage of the Taft-Hartley Act, Congress and the President made several attempts to devise a solution for the problem of strikes which crippled essential industries. Nearly all of the proposals put forward were modeled on the Railway Labor Act, despite the poor record of that law's emergency disputes procedure in recent years. One such provision was passed by the Senate on the very day in 1946 that the nation's railroads were shut down by the only industry-wide strike of railway operating employees up to that time!

When the Republicans were returned to power in the 1947 Congress, they claimed, probably correctly, that they had a mandate to prevent a recurrence of the outbreak of strikes which made 1946 the worst strike year in our history. Although the chief attention of Congress was directed toward amending the Wagner Act, considerable attention was also given to revising federal disputes procedures. To that end, the Conciliation Service was made an independent agency and "cooling-off," or 60-day notice, periods were required for changes in contracts, as noted in the first section of this chapter. These changes were included in Title II of the Taft-Hartley Act, which also established the following procedure for dealing with "national emergency" strikes.

Whenever the President determined that an industrial dispute threatened the national health or safety, he was empowered to appoint a Board of Inquiry to investigate and report on the issues. The President

could then direct the Attorney General to petition a federal district court for an injunction to prevent or terminate the strike or lockout. If the injunction was granted, the conditions of work and pay were frozen for the time being, and the parties were obliged to make every effort to settle their differences with the assistance of the Conciliation Service. If these efforts failed, at the end of 60 days the Board of Inquiry was required to make a public report on the status of the dispute. The NLRB was then required within 15 days to poll employees as to whether they would accept the last offer of the employer and to certify the result to the Attorney General within 5 days. The injunction then had to be dissolved. By this time 80 days had elapsed since the first application for an injunction. If the majority of workers refused the employer's last offer, then the President submitted the complete report to Congress with or without recommendations for action.

As of January 1, 1957, boards of inquiry had been appointed, under this section, on fifteen different occasions. In five cases, a strike vote on the employer's last offer was taken, and in three cases, strikes occurred after the machinery of the Act had been utilized.

The procedure provided by this section was attacked by union officials as being too drastic (particularly the injunction feature) and by management spokesmen and others as lacking teeth. The Act provided no ultimate sanctions against a national emergency strike after the fact-finding period had elapsed, other than the implied threat of possible Congressional action and the force of public opinion. Experience under the Taft-Hartley Act emphasized what experience under the Railway Labor Act had already demonstrated—fact-finding reports have relatively little effect in mobilizing public sentiment so as to compel settlement of labor disputes unless there is really a grave national emergency affecting the entire country or most of it.

The procedure of the Act calling for a final vote by employees on the employer's last offer is naïve, for it is unrealistic to suppose that employees will desert their leaders while the bargaining is still going on. Moreover, employees have everything to gain and nothing to lose by rejecting the last offer. They may still accept the last offer later; but they might secure better terms, since the "last offer" may not be the final one. Table 45 shows the results of the last-offer votes, both under the Taft-Hartley Act and under a similar provision in the Pennsylvania Public Utility Arbitration Act. Only under extraordinary situations—one in which the majority boycotted the vote, the other held just prior to the 1951 wage freeze when employees feared rejection would cost them an increase—have workers voted to accept a last offer in a government-con-

TABLE 45

LAST-OFFER VOTES: EXPERIENCE UNDER TAFT-HARTLEY AND
PENNSYLVANIA LAWS TO JANUARY 1, 1957

Law	No of Votes	Last Offer Accepted	Last Offer Rejected	Vote Boycotted
Taft-Hartley Act.....	5	1 *	3 †	1 ‡
Pennsylvania Utility Arbitration Act..	7	1 §	6	0

*Majority boycotted vote but those who voted favored acceptance.

†In one case, the employees rejected a subsequent and higher offer after the "last offer" had been rejected.

‡Union asked employees to boycott vote in West Coast longshore case; no one voted.

§Vote conducted January 24, 1951, just prior to 1951 wage freeze.

SOURCE: National Labor Relations Board and Pennsylvania State Labor Relations Board.

ducted election. In addition, to the procedural and practical limitations, the whole last-offer vote concept is anomalous in that it implies that workers have a right, provided by statute, to imperil the national health and safety as long as they vote to do so!

EMERGENCY DISPUTES AND THE KOREAN WAR

When the Korean war broke out, labor unions proposed that special tripartite emergency machinery be set up to handle both wage stabilization and disputes which interfered with war production. Industry countered by citing the availability of Taft-Hartley machinery to handle labor disputes, but labor wanted no part of Taft-Hartley.

When the Wage Stabilization Board was established in the early fall of 1950, it had no power to intervene in dispute cases but was confined to stabilization matters. In February, 1951, however, labor members of the tripartite wage stabilization board walked out as a result of a dispute over allowable wage adjustments. When the WSB was reconstituted some 6 weeks later, labor had won its demand that the WSB be given power over emergency disputes as well as over wage stabilization.

As we noted in Chapter 17, however, the WSB did not become involved in many disputes because labor and industry were in general agreement that labor peace was important to both, and industry offered only token resistance to substantial wage increases. The one big case which was referred to the WSB, the steel case, ended whatever usefulness the WSB had, both as a disputes agency and as a wage stabilizer. The WSB awarded a substantial increase to the CIO Steelworkers, with industry members dissenting; the industry declined to accept the increase without large price increases, which the government at first would not authorize. When the union struck, President Truman blamed the industry and seized it under his "inherent powers."

At this point the industry appealed to the courts. The case went to the Supreme Court which ruled that President Truman's seizure was unlawful.²¹ The industry was turned back to its private owners, and when they failed to accede to the union demand that the full WSB award be put into effect, the union struck. Public pressure was brought upon President Truman to invoke the Taft-Hartley Act, but he declined to do so on the grounds that this would punish the union, which had already postponed a strike longer than the 80-day Taft-Hartley waiting period, rather than the industry, which President Truman held to be at fault. The strike lasted about 3 months, when it was settled by granting the WSB award to the workers and by granting substantial price increases to the industry.

STATE EMERGENCY STRIKE CONTROL LEGISLATION

"Cooling Off" and Compulsory Investigation

The states have attempted to deal with the problem of strikes in critical industries by various legislative devices. A number of states have inserted strike notice or "cooling-off" provisions in their laws. Colorado requires a 30-day notice; Georgia does the same but excepts industries covered by the Railway Labor Act and certain seasonal industries. Michigan requires a 5-day notice in general industry and a 30-day notice in industries "affected with the public interest"; Minnesota's law is similar, but its general industry requirement is 10 days. "Wisconsin requires a 10-day notice, but this is limited to strikes which would cause the destruction or serious deterioration of the product of any employer engaged in the production, harvesting, or initial processing of any farm or dairy product."²²

Michigan and Minnesota have carried the plain strike-notice provisions to their fullest extent. In both states, considerable satisfaction has been expressed over the fact that strike notices exceed strikes by a ratio of better than 10 to 1. The assumption is, of course, that strike notices are indications of genuine intentions to strike. Actually, of course, such inference drawn from statistics is naïve. Under strike-notice provisions, unions will always file intentions to strike during negotiations, first, to free their hands and, second, as a bargaining device, to strengthen the union negotiators by threatening the employer with a stoppage if he refuses to meet the union's terms. Strike notices are thus tailor-made devices to increase union bargaining power. Experience not only under these state

²¹ *Youngstown Sheet and Tube Co. v. Charles Sawyer*, 343 U.S. 579 (1952).

²² Kaltenborn, *op. cit.*, pp. 194-95.

laws but also under the Railway Labor Act and the War Labor Disputes Act has conclusively demonstrated this fact.

Strike Votes

The Minnesota Labor Relations Act and legislation in effect in Michigan between 1947 and 1950²³ and in Missouri between 1947 and 1949²⁴ not only required notice of a strike but, in addition, an affirmative vote of those involved before a strike is commenced.²⁵ The Minnesota law required approval "by a majority vote of the voting employees in a collective bargaining unit of the employees of an employer or association of employers against whom the strike is primarily directed. . . ." Minnesota required the union to take the vote by secret ballot at a meeting after reasonable notice of time and place had been given to affected employees.

The Michigan and Missouri laws of 1947 were more stringent. Both required an affirmative majority of those in the bargaining unit—which means that those not voting were counted against striking. Michigan modified its law in 1949 to permit strikes if a majority of those voting approved. Both Michigan and Missouri required state agencies to conduct the strike vote.

The purpose of strike-vote legislation is to prevent union leaders or a minority of employees from instituting stoppages when a majority of the affected employees are opposed to striking. However, an officially ordered strike vote almost invariably becomes a union weapon. "Vote 'yes' and win a wage increase" is a typical union slogan. A vote to strike does not necessarily mean a strike. It does, however, amount to a vote of confidence in union negotiators and is potent support to the union leader who can say: "See, the rank and file are really serious. They are ready to take a strike to get an increase."

In Minnesota, the strike vote has become a perfunctory procedure. Although it is an unfair labor practice under the Minnesota Labor Relations Act for a union to strike without first conducting a strike vote, there have been apparently no prosecutions when strikes were called without having fulfilled this requirement.

The experience under Missouri's strike-vote law is summarized in Table 46. Between April 12, 1948, when the Missouri strike-vote law was

²³ This section of the Michigan act was invalidated by the United States Supreme Court on May 8, 1950 (*United Automobile Workers v. O'Brien*, 339 U.S. 454). The language of the Court indicates that there is grave doubt about the constitutionality of any strike-vote provision because of its conflict with the notice requirements of the Taft-Hartley Act. Minnesota's law, still in effect, has, as has been noted above, such a strike-vote provision.

²⁴ Missouri's legislature repealed its 1947 law in 1949.

²⁵ Florida, Colorado, Utah, and Kansas also require strike votes.

passed and October 14, 1949, when it was repealed, strikes were authorized in 85.7 per cent of the votes taken, and 88.9 per cent of the employees involved voted to strike. But strikes actually occurred in less than 5 per cent of the cases in which strikes were authorized.

TABLE 46
EXPERIENCE UNDER THE MISSOURI STRIKE-VOTE LAW,
APRIL 12, 1948–OCTOBER 14, 1949

STRIKE VOTES		STRIKES AUTHORIZED				ACTUAL WORK STOPPAGES	
		No.	Per Cent	Employees Voting To Strike		No.	Percentage of Authorized Strikes
				No.	Per Cent		
No of Elections	No of Employees Voting						
475..	49,680	407	85.7	44,144	88.9	20	4.9

Where a strike-vote law is a provision in, or companion legislation to, a statute designed to prevent strikes in essential industry, it is as anomalous as the Taft-Hartley's strike-vote provision. For a strike-vote law clearly implies that a strike is proper as long as it is authorized by a majority. On the other hand, laws designed to prevent interruption of essential industries are predicated on the theory that such interruption cannot be tolerated whether authorized by a majority of the employees or not. The state is thus in a position of providing the mechanism for authorizing a strike, and yet condemning the strike if it occurs.

Despite the unsatisfactory experience of strike-vote laws, their appeal remains. President Eisenhower proposed such a provision in 1954 as an amendment of the Taft-Hartley Act, which Congress did not pass, and Kansas enacted a strike-vote law in 1955. The states should serve as valuable legislative laboratories for each other and for the federal government. This can only be true, however, if state legislatures and Congress find out just what has been the actual experience of laws already in effect.

Arbitration, Fact Finding, and Seizure in State Laws

Table 47 presents a summary picture of state laws designed to prevent strikes in emergency disputes. Three of these laws date back to the World War I period, two were enacted in the 1930's, and the rest are products of the post-World War II labor unrest, especially the great strike wave of 1946. Although compulsory arbitration is the most widely used settlement technique, fact finding and seizure are also well represented. In addition, nearly all the laws provide for attempt at settlement

by mediation before invoking the final method of strike control; and several laws require strike votes and strike notices as well.

Strike-control legislation results from a decision that protection of the health and safety of the community requires that strikes and lockouts in essential private as well as public services be either forbidden altogether or permitted only as a last resort after state intervention. Looked at in another manner, there are industries, according to commentators, in which the strike and lockout cannot serve their primary function: to inflict sufficient damage upon the disputants so that they will be willing to compromise and come to an agreement.

In an essential industry, the argument runs, strikes and lockouts do not serve a direct persuasive or coercive purpose because the stoppage tends to injure the public before it injures the parties sufficiently to force a settlement. As a consequence, a strike in an essential industry is likely to create a public emergency or serious inconvenience. This, in turn, is likely to place pressure upon the government to intervene and even to determine the conditions upon which the stoppage shall be ended.

There is no agreement among the states as to which industries should be denied the right to strike. Table 47 shows that electric light and power, gas, and water are the most common industries covered by state strike-control laws. Although Minnesota subjects disputes in charitable hospitals to compulsory arbitration, it permits strikes in the three utilities after fact-finding procedure has been complied with. Hawaii places more drastic controls over disputes in the stevedoring industry than in electric light and power.

Many of these state laws are no longer operating as a result of a decision of the Supreme Court which found that Wisconsin statute invalid because of conflict with the Taft-Hartley Act.²⁶ Before they became inoperative, however, many of them provided a rich experience of the effect of emergency legislation. The experiences under each of the laws were too varied to be discussed in detail here.²⁷ Like wartime emergency legislation, many of these laws accomplished their purpose of preventing strikes, but at the expense of settlement by collective bargaining. Arbitration and fact-finding laws, in particular, inhibit the bargaining process because concessions made in bargaining may reduce the chances for a favorable arbitration award or fact-finding recommendation. Why concede something which later may be awarded? As the Supreme Court

²⁶ *Amalgamated Association of Street, Electric R.R. and Motor Coach Employees v. Wisconsin Employment Relations Board*, 340 U.S. 383 (1951). Despite this decision, Maryland enacted a seizure law in 1956, the constitutionality of which has been challenged.

²⁷ See H. R. Northrup, *Strike Controls in Essential Industries*, Studies in Business Economics No. 30 (New York: National Industrial Conference Board, Inc., 1951).

TABLE 47

STATE STRIKE-CONTROL LAWS FOR EMERGENCY DISPUTES

State	When Enacted	Method of Strike Control	Industrial Coverage *	Comment
Colorado	1915	Fact finding	All labor disputes in state involving four or more persons	Strikes postponed until after 30-day fact-finding period
North Dakota . . .	1919	Seizure	Coal mines and public utilities	
Kansas	1920	Compulsory arbitration	Food, clothing, utilities, and transportation	
Minnesota	1939	Fact finding	Business, industries, and institutions which affect public interest	
Minnesota	1947	Compulsory arbitration	Charitable hospitals	Only maximum hours and minimum wages in charitable hospitals are subject to arbitration, but strikes for any purpose in such institutions are outlawed
Michigan	1939	Fact finding	Hospitals and utilities supplying water, light, heat, gas, electric power, transportation, and communication	
New Jersey	1947	Compulsory arbitration and seizure	Urban transit, bridge, ferry and canal companies, sewer, electric light and power, gas, water, steam heat, communication	
Missouri	1947	Fact finding and seizure	Electric light and power, gas, heat, steam, water and sewer service, transportation, and communication	Strikes postponed for 30-day fact-finding period; then if governor decides strike would create emergency, he may seize property. Strikes forbidden during seizure. Law ruled unconstitutional by state attorney general, March, 1951, in light of Wisconsin decision of U.S. Supreme Court

State	When Enacted	Method of Strike Control	Industrial Coverage *	Comment
Virginia.....	1947	Seizure	Electric light and power, gas, water, heat, transportation, and communication; also under a separate law, coal mining and distribution of coal	Governor may seize facilities in which a strike is threatened and state operates until settlement
Indiana.....	1947	Compulsory arbitration	Electric, gas, water, telephone, transportation	This law outlawing strikes and providing for compulsory arbitration has served as a model for legislation in Wisconsin, Florida, Nebraska, and Pennsylvania. Declared unconstitutional by state court on basis of Wisconsin decision, May, 1951 Declared unconstitutional by U.S. Supreme Court, February, 1951
Wisconsin.....	1947	Compulsory arbitration	Water, light, heat, gas, electric power, urban transit and communication	Very similar to Wisconsin and Indiana legislation
Florida.	1947	Compulsory arbitration	Electric power, light, heat, gas, water, communications, and transportation	Very similar to other "Indiana-type" laws except its coverage does not include transportation and communication
Pennsylvania .	1947	Compulsory arbitration	Electric, gas, water, and steam heat	Very similar to Indiana-type laws except it applies to state-owned as well as to privately owned utilities; and except that arbitration is by a permanent industrial court instead of a board appointed especially for each case
Nebraska.....	1947	Compulsory arbitration	Public or private employer furnishing transportation for hire, telephone or telegraph service, electric light, heat, and power services, gas or water companies	
Texas.....	1947	.....	Electric energy, gas and water	Texas is the only state which outlawed public utility strikes but did not establish a substitute method of settlement
Massachusetts..	1947	Seizure, arbitration, fact finding	Production or distribution of food, fuel, water, electric light or power, gas, hospital or medical service	Governor is permitted to deal with emergency strikes in a variety of ways so that party precipitating emergency is not certain which procedure will be followed
Hawaii.....	1949	Fact finding	Public utilities	Strikes postponed until fact-finding period is over
Hawaii.....	1949	Seizure	Dock and stevedore operations	Territorial governor may seize and operate struck dock facilities
Maryland....	1956	Seizure	Public utilities	Governor may seize to prohibit strikes

Source: National Industrial Conference Board Studies in Business Economics No 30, "Strike Controls in Essential Industries"

* All laws covering transportation exclude railway and air transportation, over which federal Railway Labor Act has jurisdiction.

stated in its decision invalidating the Wisconsin law, the so-called emergency legislation was invoked as soon as a dispute arose, regardless of the extent of the emergency, until the law became "a comprehensive code for the settlement of labor disputes between public utility employers and employees."

There is conflicting evidence as to whether or not two laws—the seizure law of Virginia, which penalized employer profits and denied employees any concessions during the seizure period, and the Massachusetts law, which gave the Governor several alternatives to pursue in case of an emergency so that neither union nor management could foretell what would happen—inhibited collective bargaining while preventing disputes in critical industries.²⁸

Basically the problem of confining emergency legislation to emergencies remains a difficult one. By various legislative measures, the states have gained valuable experience which may eventually point the way to a solution of the problem of encouraging free collective bargaining, while at the same time protecting the public against stoppages which create either grave inconvenience or actual emergency.

QUESTIONS FOR DISCUSSION

1. Discuss the value of strike votes supervised by governmental agencies as a means of reducing work stoppages. What has been the experience of the states with such strike votes?
2. What role should legislation play in emergency disputes? Should states be allowed to intervene in such disputes? To what extent?
3. Is conciliation a difficult job to do well? Explain your answer.

SUGGESTIONS FOR FURTHER READING

BERNSTEIN *et al.* (eds.) *Emergency Disputes and National Policy*. New York: Harper & Bros., 1955.

A symposium on government and emergency disputes.

KALTENBORN, HOWARD S. *Governmental Adjustment of Labor Disputes*, chaps. ii and ix. Chicago: The Foundation Press, 1943.

A brief review of the conciliation service and the conciliator's problems.

²⁸ Northrup, *op. cit.*, pp. 30–35.

Chapter 25

STATE LABOR RELATIONS LEGISLATION

Between 1937 and 1945, seven states—Utah, Wisconsin, New York, Pennsylvania, Massachusetts, Rhode Island, and Connecticut—passed legislation modeled on the Wagner Act. Two years later Wisconsin and Pennsylvania amended their “Little Wagner” Acts to lessen the protection given employees in choosing unions and to place restrictions upon certain employee and union activities similar to the provisions of the Taft-Hartley Act. Also, in 1939, Minnesota and Michigan adopted laws similar to the amended Wisconsin and Pennsylvania statutes, as did Colorado and Kansas in 1943. In 1947, Utah amended its “Little Wagner” law on the Wisconsin model, and Massachusetts made modifications in its legislation based upon the unanimous report of a tripartite labor-management-public committee appointed by the Governor. In 1953, Oregon enacted a law somewhat on the Taft-Hartley version. Hawaii and Puerto Rico have also enacted laws modeled on the Taft-Hartley Act.

In addition to these comprehensive statutes, a great many states have passed laws aimed at restricting certain union activities. We have already discussed the fact that eighteen states forbid or restrict union-security agreements.¹ Other state-restricted activities include picketing, jurisdictional strikes, and boycotts. Regulation of union welfare funds is in effect in three states and promises to spread, as noted in Chapter 3.²

A development since World War II has been in the field of “fair employment practice.” Legislation has been adopted by several states and cities curbing employer and union freedom to discriminate in employment because of race, color, sex, or national origin.

JURISDICTION OF STATE LABOR LAWS

The jurisdiction of state labor laws includes (1) intrastate industries; (3) areas over which the National Labor Relations (Taft-Hartley)

¹ See Chapter 6.

² See pp. 112–16.

Act has ceded jurisdiction; and (3) areas of regulation concerning which a state law exists, but no federal law has been enacted.

Intrastate industries (exclusive of agriculture, which is generally exempt from both state and federal labor legislation) include approximately 17,500,000 workers employed in laundries and other such service trades, local transportation and utilities, retail stores, etc. Approximately 25 per cent of the civilian labor force is so engaged.

Under the Wagner Act, the National Labor Relations Board ceded jurisdiction to state agencies over various industries which are technically in interstate commerce but are also local in character. An example in New York was the financial and brokerage industry which was handled by the New York State Labor Relations Board, although the NLRB clearly had jurisdiction. The NLRB adoted such arrangements, either because its budget was limited or because it believed that state agencies could best deal with primarily local industries.

The Taft-Hartley Act restricted NLRB-state board co-operation, despite the fact that it purported to encourage it. This was true because, although the Taft-Hartley Act authorized the NLRB to cede jurisdiction over localized industries to state agencies, it permitted the NLRB to waive its authority only where the state law was consistent with the Taft-Hartley Act. Since New York's law retained Wagner Act principles, the co-operation between the New York Board and the NLRB was thereby restricted. None of the state laws have met the Taft-Hartley Law requirement of "consistency" with the result that the NLRB has not ceded any jurisdiction to the states since passage of the 1947 Act.

A "no-man's land" has been created in recent years by the attempt of the National Labor Relations Board to withdraw from what the Board has decided are essentially "local" businesses, but which are, however, interstate by legal definition. Many of the situations over which the NLRB has abdicated authority are located in states which have either no labor relations act or which have an act not consistent with the Taft-Hartley Act. In either case, when the NLRB does not exercise its authority, a regulatory vacuum results.

The second area of state jurisdiction derives from the provision of the Taft-Hartley Act which specifically grants pre-emption to state laws regulating union-security provisions. In the absence of this specific provision, no state would be empowered to act on union security except so far as it affected purely intrastate industry. The reason is the doctrine of federal pre-emption based on Article VI, Clause 2, of the Federal Constitution which states: "This Constitution and the laws of the United States which shall be made in pursuance thereof . . . shall be the supreme

law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding.”

The doctrine of federal pre-emption has also been construed by the United States Supreme Court to restrict state regulation of picketing, boycotts, jurisdictional strikes, and, as noted in Chapter 24,³ emergency strikes. The Wagner Act did not deal with any of these areas. Consequently, under the Tenth Amendment to the Constitution, which reserves to the states those powers not delegated to the federal government, many state laws regulating these areas were passed after the Wagner Act became law in 1935.

The Taft-Hartley Act, however, does legislate on these subjects. This has narrowed the applicability of these state laws, or cast doubt on their constitutionality, especially in view of recent Supreme Court decisions which give a liberal interpretation to the doctrine of federal pre-emption. It is not likely that this conflict of federal and state jurisdiction can be settled without specific and careful Congressional action.

The third area of state jurisdiction arises when a state enacts a regulatory measure covering problems concerning which the federal government has taken no position. Thus state laws regulating the internal affairs of unions or outlawing union race discrimination have been ruled constitutional by the United States Supreme Court because the federal government has not asserted jurisdiction over these problems. Such state laws operate in interstate as well as in intrastate commerce. Likewise in this category are the new laws regulating union-management welfare funds. If the federal government also legislates in this field, it must take cognizance of the state laws, or else the state laws could be invalidated by pre-emption.

THE “LITTLE WAGNER” AND “LITTLE TAFT-HARTLEY” ACTS

Employer Unfair Labor Practices

As the summary in Table 48 shows, both the “Little Wagner” Acts and those which more closely resemble the Taft-Hartley law follow the unfair labor practice provisions of the Wagner Act. Some include in their proscriptions specific prohibitions against black list, employer espionage, and other matters which have been covered within the Wagner Act’s general restriction on restraint or coercion of employees for union activity.

On the other hand, two of the state laws, Minnesota and Michigan, do not specifically prohibit the employer from restricting or coercing em-

³ See p. 755.

ployees, and the revised Wisconsin, the Minnesota, and the Colorado statutes limit the protection of workers against company unions. The Oregon law outlaws only interference with union activity and discrimination for union activity.

In enforcing unfair labor practice provisions, the New York courts permit the New York State Labor Relations Board to draw inferences from hearsay and make other variations from accepted courtroom procedure along the lines of the procedure utilized by the NLRB under the Wagner Act. In most of the other states, however, the state courts have been more restrictive and have forced the state agencies to adhere more closely to court procedure.

Most of the state laws permit the closed or union shop. The 1947 amendments to the Massachusetts law, however, require the Massachusetts Labor Relations Commission to prohibit discharges initiated by unions pursuant to compulsory membership agreements if the union was guilty of discrimination or undemocratic practices. Although the amended Wisconsin law prohibits compulsory membership agreements with a company-dominated union, it does permit the employer to sign such an agreement with a union which is not authorized by the majority of the workers to represent them, a provision which is obviously inconsistent with the freedom of choice which that act purports to protect. The Kansas statute is somewhat similar.

The Pennsylvania statute permits employers to sign compulsory membership agreements only if the union is free from company discrimination, is the majority choice of the employees, admits to membership all employees eligible, and does not discriminate because of race, color, creed, or political beliefs. Wisconsin and Colorado require unions which are parties to compulsory membership contracts to admit all present and, apparently, all future employees. In addition, both Wisconsin and Colorado require special elections and approval, by three fourths of the membership in Colorado and by two thirds in Wisconsin, before the compulsory membership agreement can be signed. The Wisconsin provision, incidentally, was the source of the similar election requirement in the Taft-Hartley Act.

All these restrictions on the closed shop, except those in Massachusetts, are directed in actual fact primarily against the employer rather than against the union, since the employer commits an unfair labor practice by signing an illegal compulsory membership agreement or by discharging an employee pursuant thereto. Perhaps this accounts for the fact that only in Wisconsin have there been actual cases brought to hearings under these provisions. The Massachusetts law attempts to surmount

TABLE 48

UNFAIR LABOR PRACTICES FORBIDDEN BY STATE LABOR RELATIONS ACTS

Prohibited Practice	Colo.	Conn	Hawaii	Kan	Mass	Mich	Minn	N Y	Ore	Pa	P R	R I	Utah	Wis.
<i>For employers:</i>														
Interference....	X	X	X	X	X	X	..	X	X	X	X	X	X	X
Domination of union....	X	X	X	X	X	X	..	X	X	X	X	X	X	X
Discrimination for union activity....	X	X	X	X	X	X	..	X	X	X	X	X	X	X
Discrimination for testifying....	X	X	X	X	X	X	..	X	X	X	X	X	X	X
Refusal to bargain....	X	X	X	X	X	X	..	X	X	X	X	X	X	X
Espionage....	X	X	X	X	X	X	..	X	X	X	X	X	X	X
Blacklisting employees....	X	X	X	X	X	X	..	X	X	X	X	X	X	X
Deduct dues not authorized individually....	X	X	X	X	X	X	..	X	X	X	X	X	X	X
Breach of contract....	X	X	X	X	X	X	..	X	X	X	X	X	X	X
Bargaining with minority....	X	X	X	X	X	X	..	X	X	X	X	X	X	X
Lockout contrary to agreement....	X	X	X	X	X	X	..	X	X	X	X	X	X	X
Ignoring final determination of tribunal....	X	X	X	X	X	X	..	X	X	X	X	X	X	X
<i>For employees or unions:</i>														
Secondary boycott....	X	X	X	X	X	X	X	..	..	X	..	..	X	X
Picketing in minority strike....	X	X	X	X	X	X	X	..	..	X	..	..	X	X
Coercing employees....	X	X	X	X	X	X	X	..	..	X	..	..	X	X
Coercing employers to engage in interference....	X	X	X	X	X	X	X	..	..	X	..	..	X	X
Ignoring final determination of tribunal....	X	X	X	X	X	X	X	..	..	X	..	..	X	X
Breach of contract....	X	X	X	X	X	X	X	..	..	X	..	..	X	X
Sit-down strike....	X	X	X	X	X	X	X	..	..	X	..	..	X	X
Mass or violent picketing....	X	X	X	X	X	X	X	..	..	X	..	..	X	X
Intimidating employee's or employer's family....	X	X	X	X	X	X	X	..	..	X	..	..	X	X
Picketing beyond industry....	X	X	X	X	X	X	X	..	..	X	..	..	X	X
Insistence on hiring stand-by employees....	X	X	X	X	X	X	X	..	..	X	..	..	X	X
Acting as union agent without license....	X	X	X	X	X	X	X	..	..	X	..	..	X	X
Forcing union membership....	X	X	X	X	X	X	X	..	..	X	..	..	X	X
Jurisdictional strike....	X	X	X	X	X	X	X	..	..	X	..	..	X	X

Source: Compilation by The Bureau of National Affairs, Inc.

this difficulty by subjecting discharges made pursuant to the use of closed shops to arbitration on the complaint of the person discharged.

All of the Little Wagner Acts authorize the enforcement agency to order an employer to reinstate a worker who has been illegally discharged or otherwise discriminated against because of union activities, but only four of the seven Taft-Hartley type laws do so. In a number of cases in which workers have been discharged pursuant to an illegal closed-shop agreement, the Wisconsin Employment Relations Board ordered the union to reimburse the worker with back pay, but the Wisconsin Supreme Court overturned the rulings on the grounds that the Board had no power so to penalize the unions.

The Michigan, Minnesota, and Kansas acts make no provisions for either reinstatement or back pay. This omission reduces to a bare minimum the protection given to employees and to unions.

All of the "Little Wagner" Acts and again only four of the Taft-Hartley type require the employer to bargain with the duly chosen representative of his employees. Colorado, however, permits the employer to refuse to bargain for a closed shop. Kansas, Michigan, and Minnesota do not require the employer to bargain, thus further reducing the protection given employees and unions.

Finally, in all states but Kansas and Michigan, a special agency is delegated authority to administer the labor relations law. In these two states, administration is left to the courts where, as under the Railway Labor Act, the full burden of the litigation is on the aggrieved party. As a result, the unfair labor practice provisions of these two states are virtually inoperative.

Unfair Labor Practices of Employees and Unions

The unfair labor practices in the "Little Taft-Hartley" laws which are directed against employees and unions are summarized in Table 48. They may be divided into four categories:

1. Prohibitions of violence and similar activities, which were almost universally unlawful before the passage of the labor relations acts—for example, sit-down strikes, sabotage, and mass picketing.
2. Restrictions on peaceful tactics, such as picketing and organizing campaigns, especially where coercion is alleged.
3. Limitations on union objectives which make illegal all efforts to achieve a forbidden objective, such as a make-work rule.
4. Regulations of the internal affairs of unions, such as financial matters, election procedure and eligibility for union office.⁴

⁴ C. C. Killingsworth, *State Labor Relations Acts* (Chicago: University of Chicago Press, 1948), pp. 42–43.

Wisconsin has had the most experience with these proscriptions. In the other states, the machinery against unfair union practices has not been utilized, except in a very few cases. And in Wisconsin the results have not been conspicuously successful, largely because the damages alleged have already been sustained long before the sanctions or remedies can be brought to bear. It will be recalled that the Taft-Hartley Act gave prior treatment to, and provides that the NLRB must seek an injunction in, boycott cases. It seems likely that this provision was influenced by the experience under the Wisconsin law.

In making violence and other already unlawful acts unfair labor practices, the Little Taft-Hartley laws provide new procedures and penalties to control such conduct. The laws which are enforced by administrative agencies can be utilized to restrain violence or illegal picketing; or the protection of the law may be withdrawn from unions. This latter is a severe penalty, for it leaves the employer free to commit any and all unfair labor practices against the union, and this amounts to a doctrine that two wrongs make a right. Moreover, in case the same penalty is invoked against the employer, he has little to lose since he can apply for police protection against activities which were always unlawful.

The second group of state employee unfair labor practices restricts activities such as peaceful picketing, boycotting, and jurisdictional strikes which would otherwise be lawful. As we noted in Chapter 22, the extent to which the states may regulate peaceful picketing is not clear, although it is certain that some regulation is permissible, provided there is no conflict with a Federal statute, particularly the Taft-Hartley Act.

Kansas makes it unlawful to strike, picket, boycott, or otherwise engage in concerted activity for the purpose of a jurisdictional strike. Minnesota provides that if, upon due notice, the unions do not cease a jurisdictional strike and determine the issue peacefully, the governor may appoint a referee and force the matter into compulsory arbitration. This was undoubtedly the provision upon which the Taft-Hartley Act provision dealing with jurisdictional strikes was modeled.

Wisconsin and Colorado make it an unfair labor practice for a union to refuse to accept a final and binding award of the state labor relations agency, an arbitration tribunal, or a court. This has had the effect of outlawing picketing or boycotting to upset labor board certifications. In 1947, Massachusetts specifically amended its law to prevent union defiance of labor board certifications. In New York, the state courts have ruled that the state anti-injunction law, which is modeled on the Norris-LaGuardia Act, does not limit the right of the courts to enjoin picketing which is aimed at nullifying a state labor board certification. Hence, New York has felt no need to legislate on this subject.

Minnesota, Wisconsin, and Colorado provide that strikes in violation of collective agreements are unfair labor practices. In addition, as noted in Chapter 24, most of the states which have legislation similar to the Taft-Hartley Act require strike notices and strike votes prior to the calling of the strike.

Kansas, Wisconsin, Utah, Minnesota, and Colorado have outlawed nearly all types of primary or secondary boycotts. Utah, Wisconsin, and Minnesota exempt sympathy strikes in support of employees in similar occupations working for other employers in the same type work, but the other states even omit these provisions. These state laws, combined with the provision in the Taft-Hartley Act, effectively outlawed picketing in support of boycotts in most industries.

Finally, Wisconsin, Colorado, Utah, Michigan, Kansas, Pennsylvania, and Oregon prohibit employee interference or coercion in the right of employees to join or not to join unions.

The most important regulation classified in the third group—restrictions on union objectives—is that of compulsory union agreements. Since this applies as an unfair labor practice to employers as well as to unions, it has already been discussed above. In addition, however, three states—Wisconsin, Colorado, and Pennsylvania—have, like the Taft-Hartley Act, outlawed the automatic or general checkoff of union dues and permit only the voluntary checkoff after the individual has authorized it in writing.

Two other restrictions are contained in this type of legislation. The first is the provision in the Colorado Act which makes it an unfair labor practice for a union to require the hiring of unnecessary employees. A similar provision was later placed in the Taft-Hartley Act. The other is the restriction in the Utah law which makes it an unfair labor practice for an employer to bargain with a minority union. This is applicable not only where there is a majority union but also where there is a union to which a minority of the employees belong, but no majority union has been certified. Hence, it goes beyond the Taft-Hartley Act.

The final group—regulation of the internal affairs of unions—includes provisions couched in terms of union democracy apparently designed to restrict union activity (Kansas and Colorado); those which are genuinely designed to promote union democracy (Massachusetts and Minnesota); and those which are difficult to classify (Wisconsin and Pennsylvania).

Kansas requires registration, licensing of business agents, and many other details which are designed to burden unions and which are of questionable constitutionality, since conceivably they could be utilized to prevent unions from operating altogether. Colorado enacted an even more

drastic regulatory law, which included compulsory incorporation for unions, but this section of the statute was declared invalid by the state supreme court.

Wisconsin's statute requires unions to provide financial reports in writing to all members but makes no penalty for violations. Kansas prohibits the collection of dues, assessments, etc., in excess of those authorized in the constitution of the union. Colorado's financial requirements are severe in that they require the state industrial commission to pass upon initiation fees and dues and to change or to alter any fees if the commission thinks such changes are proper. Conceivably, the industrial commission could cut off all revenues of the union, but the provisions cannot now be enforced, since they were included in the compulsory incorporation section which was held unconstitutional.

Kansas, Wisconsin, and Colorado regulate union elections. Kansas merely makes it an unfair labor practice to prevent or prohibit an election of officers. Minnesota's unique union democracy law⁵ regulates the details of elections, providing that they must be held according to the union constitution but at least every 4 years, with secret ballot, and disqualifies the union as a bargaining representative in case of violation. Thus far, however, there has been little experience with this law. Colorado's regulations, which were the most drastic, have been rendered unenforceable by the court decision in the compulsory incorporation case.

Pennsylvania, Wisconsin, Colorado, and Massachusetts regulate union membership policies in cases where the union holds a closed shop or other form of compulsory membership contract. Pennsylvania prohibits discriminatory membership policies because of race, color, creed, or political affiliation for such unions. Wisconsin and Colorado require that a union under such an agreement must not unreasonably refuse to accept any employee of the employer as a member. The Massachusetts law of 1947 provides that no compulsory membership agreement can be applied to an employee who is not eligible for full membership and voting rights in the union. In addition, the employer cannot discharge such an employee except under restricted conditions, and the employee can appeal to the Massachusetts Labor Relations Commission to have a discharge overturned, if (1) the discharge violated the union's rules, (2) the employee had been denied a fair trial, (3) the penalty imposed was not justified by the offense, or (4) the penalty was inconsistent with the established public policy of the state. It is also an unfair labor practice in Massachusetts to strike against or boycott an employer to force him to discharge an employee in violation of the state law.

Kansas makes it a misdemeanor for a union to deny an employee

⁵ This is a separate statute from the Minnesota labor relations act.

the right to petition courts concerning any agreement, to publicize facts concerning such agreement or violation of law, and to assemble peaceably or to speak freely. Colorado permits an employee to take any complaint regarding any union matter to the state industrial commission and thus suspend any disciplinary action of any kind that a union might impose upon a member until the commission could interfere. Here again, however, the law is inoperative because of its tie-in with the unconstitutional compulsory incorporation feature.

Representation Disputes

All the state labor relations laws except those in Kansas and Michigan provide that in case of a dispute over representation the appropriate agency shall have authority to determine which union, if any, is the representative of a given group of employees. In Michigan, the state mediation board can conduct elections but only if all parties agree, but Kansas makes no provision whatsoever.

In general, the state boards handle representation matters similarly to the way in which the National Labor Relations Board functions. There are, however, some statutory and administrative variations. The first of these is the so-called craft proviso, which was written into many of the state laws at the request of the American Federation of Labor. Thus the New York law, Section 705 (2), provides that "in any case where the majority of employees of a particular craft shall so decide, the [New York State] board shall designate such craft as a unit appropriate for the purpose of collective bargaining." This is similar to, but goes beyond, the craft unit policies of the NLRB. In effect, it extends to all crafts the right of separate representation such as the Taft-Hartley Act gave to professional employees. State agencies may, however, deny a separate election to an employee group if the agency decides that the group is composed of various employees rather than of a "true craft."

The appropriate unit is generally one plant, but multiplant units are not unknown, particularly in industries, e.g., retail delivery, where multiunit bargaining on a local basis is common.

All the laws follow the Taft-Hartley rather than the Wagner Act in permitting employers to petition for representation elections, although the latitude permitted employers to petition varies considerably. In addition, Pennsylvania and Wisconsin permit employees to file petitions to prove that they do not want representation by a union. This is an approach somewhat similar to the decertification procedure of the Taft-Hartley Act.

RESTRICTIVE LEGISLATION

As noted earlier in this chapter, a great many states have enacted legislation designed to curb specific union conduct. These laws differ from labor relations or "Little Taft-Hartley" laws in that they are not usually part of a comprehensive state labor code but are rather aimed at restricting a particular union activity. The so-called "right-to-work" laws fall in this category. In Chapter 6, we analyzed these laws which are in effect in eighteen states.⁶ Most of the right-to-work laws either limit or forbid outright the check-off of union dues.⁷

Other union activities which are frequent targets of state legislative curbs are boycotts, jurisdictional strikes, sit-down strikes, and picketing. Tables 49, 50, and 51 summarize the laws dealing with these subjects, and also include any applicable provisions of state labor relations acts.

Little needs to be added about the nature of these laws and the subjects with which they deal beyond what has already been noted in Chapters 22, 23, and earlier in this chapter. Their enforceability and validity are in doubt in many areas already covered by the Taft-Hartley Act. Moreover, although the activities toward which they are directed are certainly worthy of legislative consideration, too often the laws are written without very much understanding of the nature of unions. Most of the restrictions are in fact found in rural states and seem more aimed at reducing the effectiveness of unions generally than in curbing specific abuses.

FAIR EMPLOYMENT PRACTICE LEGISLATION

The efforts of Negroes and other minorities to obtain a fair chance at employment opportunities, coupled with the manpower requirements of the armament program, led in early 1941 to the issuance of a Presidential executive order establishing a fair employment practice committee. During the war, the committee attempted to integrate minority workers into war industries and otherwise effectuate the policy of non-discrimination on grounds of race, color, creed, or national origin.

The work of the FEPC dramatized the possibilities of such legislation and led a number of states and municipalities to pass laws, either

⁶ Alabama, Arizona, Arkansas, Florida, Georgia, Indiana, Iowa, Mississippi, Nebraska, Nevada, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, Texas, Utah, and Virginia.

⁷ See Table 12, p. 188 for a description of "checkoff."

TABLE 49

STATE REGULATION OF PICKETING

State and Date of Law	Mass Picketing	Picketing by Nonemployees	Picketing Where No Labor Dispute	Of Homes	Other Picketing	State and Date of Law	Mass Picketing	Picketing by Nonemployees	Picketing Where No Labor Dispute	Of Homes	Other Picketing
Alabama: 1943 . . .					Unlawful to prevent pursuit of lawful vocation by force or violence or threat thereof.	Mississippi: 1942 . . .	X				..
Arizona: 1952 . . .						Nebraska: 1949 . . .	X				..
Arkansas: 1943 . . .	X		X			North Dakota: 1949 . . .		X			..
Colorado: 1943 . . .						Oregon: 1953. . .					..
Connecticut: 1943 . . .	X				Picketing illegal, except after strike vote.	Pennsylvania: 1947 . . .					No picketing unless union is certified as bargaining agent for employees.
Florida: 1947 . . .				X		South Carolina: 1954 . . .	X				Unlawful to obstruct or threaten to obstruct plant entrances, exits, or use of roads and public conveyances
Georgia: 1947 . . .	X					South Dakota: 1943. . .			X*		Unlawful to obstruct entrance, exit, or act with violence
Hawaii: 1949 . . .			X		Unlawful to restrict ingress or egress.	Texas: 1947 . . .		X	X		Picketing is illegal if there is misrepresentation or breach of contract, no picketing of public utilities
Illinois: 1955 . . .			X		Unlawful to restrict entrance, exit Must confine picketing to area where dispute arises.		X		X		Unlawful for union to picket unless it represents majority of employees
Iowa: 1950 . . .					Picketing of courts.	1955 . . .					Picketing permitted only if majority have voted in favor of a strike
Massachusetts: 1950. . .					Picketing of courts.	Utah: 1947 . . .	X			X	Unlawful to obstruct entrance and exit.
Michigan: 1949 . . .	X		X		Unlawful to restrict entrance, exit; to interfere with roads, means of travel	Virginia: 1952 . . .		X			Unlawful to obstruct entrance and exit.
Minnesota: 1939 . . .					Restriction on picketing where no strike is in progress	Wisconsin: 1939 . . .	X		X		..
Missouri: 1945 . . .		X	X		No picketing to deny the right of certified union to act		X		X		..

*No picketing of homes on agricultural premises

*No picketing of public utility, when the intent is to disrupt service; no sabotage of public utility, no picketing to secure a violation of a valid labor agreement.

SOURCE Compilation by The Bureau of National Affairs, Inc.

TABLE 50

JURISDICTIONAL STRIKES AND BOYCOTS

State and Date of Law	PROVISION AGAINST			State and Date of Law	PROVISION AGAINST		
	Juris- dictional Strike	Second- ary Boycott	Other Boycotts		Juris- dictional Strike	Second- ary Boycott	Other Boycotts
Alabama: 1943.....	....	....	Unlawful to prevent employer from obtaining or using materials.	Michigan: 1949.....	X †	....	....
Arizona: 1932.....	..	X	....	Minnesota: 1943.....	X †	....	....
California: 1947.....	X	....	....	1945.....	....	....	Restriction on boycotting to deny right of certified union to bargain.
Colorado: 1943.....	....	X	....	1947.....	....	X §	....
Florida: 1943.....	....	....	....	North Dakota: 1953.....	....	X	....
Georgia: 1943.....	X	..	....	Oregon: 1947.....	....	X	....
1947.....	..	....	Unlawful to prevent any employer from lawfully conducting his business or acquiring materials	Pennsylvania: 1947.....	X	X	....
Idaho: 1947.....	..	....	....	South Dakota: 1953.....	....	....	Illegal to interfere with movement of farm products because not union made.
Iowa: 1947.....	....	X	....	Texas: 1947.....	....	X	Certain boycotts are in restraint of trade.
Kansas: 1955.....	X	X	....	Utah: 1947.....	....	X ^o	....
Massachusetts: 1947.....	X	....	Illegal to boycott to bring about an unfair labor practice to coerce employees in choice or rejection of bargaining representative after commis- sion has determined that they do not desire to be represented by such union.	Wisconsin: 1939.....	....	X	....
				1947.....	X	....	....

*Does not outlaw jurisdictional strikes but provides injunctive relief when one party fails to comply with an arbitration award.

†No strike pending attempt to mediate. If this fails, election must be held to determine the issue.

‡No strike pending determination by labor referee appointed by the governor

§No boycott to coerce an employer to encourage or discourage union membership.

^oDoes not prevent sympathetic strikes of workers in the same craft.

SOURCE: Compilation by The Bureau of National Affairs, Inc.

TABLE 51

STATE REGULATION OF STRIKES

STATE AND DATE OF LAW	PROHIBITION AGAINST	
	Sit-Down Strike or Seizure of Property	OTHER STRIKES
Colorado:		
1943.....	X	.....
Florida:		
1943.....	X	.....
Kansas:		
1943.....	X	.....
Maryland:		
1941.....	X	.....
Massachusetts:		
1947.....	X	No strike or slowdown to bring about an unfair labor practice.
Michigan:		
1939.....	X	.....
Minnesota:		
1943.....	X	.....
1945.....	....	No strike to deny right of certified union to bargain.
1947.....	....	No strike to coerce other employer to encourage or discourage union membership.
North Dakota:		
1953.....	....	Sympathy strike.
Pennsylvania:		
1947.....	X	.....
Utah:		
1947.....	X	.....
Vermont:		
1937.....	X	.....
Washington:		
1937.....	X	.....
Wisconsin:		
1939.....	X	.....

SOURCE: Compilation by The Bureau of National Affairs, Inc.

modeled on the federal FEPC or less broad in coverage. Some of these laws have enforcement powers and others do not (Table 52).

Under state fair employment laws with enforcement powers, agencies are required to investigate and to hear charges of discrimination in much the same manner as the NLRB handles unfair labor practice cases. These laws also provide, however, that conciliatory methods to secure compliance must be attempted before enforcement is invoked.

The state laws have already had effects upon policies of employers and unions. A number of unions, such as the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees and

the Brotherhood of Maintenance of Way Employees, have removed discriminatory provisions from their laws and have adopted nondiscriminatory policies. Others, however, such as the Brotherhood of Railroad Trainmen and the Brotherhood of Locomotive Firemen and Enginemen, have modified their rules but not their policies.

State fair employment practice laws have also resulted in considerably increased employment, especially for Negroes but also for other minorities. Unfortunately, however, these laws have not had the far-reaching effects which their sponsors expected. The basic reason appears to be that workers from minority groups remain reluctant to apply for jobs where they feel that they will be rejected. Workers are looking for jobs, not lawsuits or insults. And most important, there is no organization to play the role which unions have in unfair labor practice cases. A worker

TABLE 52

STATE AND MUNICIPAL FAIR EMPLOYMENT PRACTICE LEGISLATION, JANUARY, 1954

STATE LAWS WITH ENFORCEMENT POWERS		STATE LAWS WITH ONLY "EDUCATIONAL" POWERS	
Alaska	New Mexico	Kansas	
Colorado	New York	Indiana	
Connecticut	Oregon		
Massachusetts	Pennsylvania		
Michigan	Rhode Island		
Minnesota	Washington		
New Jersey	Wisconsin		
MUNICIPAL ORDINANCES WITH ENFORCEMENT POWERS		MUNICIPAL ORDINANCES WITH ONLY "EDUCATIONAL" POWERS	
Illinois:	Ohio:	Pennsylvania:	Ohio:
Chicago	Campbell	Braddock	Akron*
Indiana:	Cleveland	Clairton	Arizona:
East Chicago	Girard	Duquesne	Phoenix†
Gary	Hubbard	Erie	
Michigan:	Lorain	Johnstown	
Ecorse	Lowellville	Monessen	
Hamtramck	Niles	Philadelphia	
Pontiac	Steubenville	Pittsburgh	
River Rouge	Struthers	Sharon	
Minnesota:	Warren	Iowa:	
Duluth	Youngstown	Des Moines	
Minneapolis	Cincinnati†	Sioux City*	
St. Paul		Missouri:	
Wisconsin:	California:	St. Louis†	
Milwaukee	Richmond*	Maryland:	
	San Francisco	Baltimore†	

* Applicable only to municipal agencies and firms doing business with municipality.

† Applicable only to municipal agencies.

SOURCE: New York State Commission against Discrimination.

who has been discriminated against because of race or color may secure some assistance from a race relations organization or a legal-aid group; but no organization exists which is primarily engaged in handling such matters. As a result, many complainants do not follow through even if they make complaints. Nevertheless, there is real indication of improved employment opportunities for minorities as a result of these laws.

Other Nondiscrimination Legislation

Fair employment legislation of another kind exists in two states. Louisiana and Massachusetts outlaw discrimination because of age. The former state utilizes the courts to enforce its statute; the latter assigns enforcement duties to the commission which administers its FEPC law.

In addition, in thirteen states—California, Connecticut, Illinois, Maine, Massachusetts, Michigan, Montana, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Washington⁸—discrimination in rates of pay as between sexes is forbidden. Such legislation is sponsored both by equal rights groups for women and by unions who fear that women will be employed at lower rates than men.

CONCLUDING REMARKS

The states have experimented widely in the field of industrial relations. Many state laws have been based on federal experience; and much federal legislation in turn originated in the states. The Wagner Act was copied by several states, and many of the Taft-Hartley amendments to the Wagner Act were based on state laws. Nevertheless, much state experience is ignored by federal legislators, as witness the Eisenhower administration proposal to enact strike-vote legislation despite the adverse experience with such legislation in Michigan, Minnesota, and Missouri.⁹

The need, moreover, for basic uniformity in federal-state legislation has never seriously been studied by Congress and the state legislatures. No agreement exists as to which areas should be regulated by states and which by the federal government. Stable and peaceful industrial relations require agreement both on areas of regulation and on principles. The latter, apparently, must await the former, and the former may only be achieved by federal assertion of authority where Congress decides such is necessary; and federal abdication where Congress decides what matters should be left to the states.

⁸ Alaska also has an equal-pay law.

⁹ See Chapter 24, pp. 753–54.

QUESTIONS FOR DISCUSSION

1. What suggestions would you make to divide labor relations authority between the states and the federal government? Explain your answer, and indicate what changes in federal and state laws would be required.
2. Do you think laws against discrimination in employment make a contribution to public policy? Explain your answer.
3. What contributions, if any, do "right to work" laws make to sound collective bargaining?

SUGGESTIONS FOR FURTHER READING

KILLINGSWORTH, C. C. *State Labor Relations Acts*. Chicago: University of Chicago Press, 1948.

A thorough study of state acts which have not changed substantially since 1948.

NORTHROP, HERBERT R. "Progress without Federal Compulsion," *Commentary*, Vol. XIV (September, 1952), pp. 206-11.

An analysis of progress in fair employment and of the means to further federal action, both short of and including a compulsory federal FEPC.

Chapter 26

COLLECTIVE BARGAINING BY GOVERNMENT EMPLOYEES

In 1957, nearly 8,000,000 persons earned their livelihood as civilian employees of federal, state, or local governments.¹ Public employees thus constitute one of our largest worker groups. Moreover, the tendency of our times is to increase the services of the state and, hence, the number of public workers. Obviously, the government must have industrial relations policies to deal with its vast employee force. (See Fig. 53.)

The role of government as employer is of increasing concern today, first because of the expansion of government activity into the industrial field and second because of the frequent use of the seizure technique as a method to deal with so-called emergency strikes. As to the latter situation, for example, the Supreme Court ruled in 1947 that the federal government was not proscribed by the Norris-LaGuardia Act from obtaining an injunction against a strike by the United Mine Workers at a time when the government had seized the mines because miners were then "federal employees."² The court ruled thus despite the fact that the government was in possession of the mines in only a fictional, or perhaps technical, sense, and despite the fact that there was no thought on the part of anyone involved in the controversy that the mines would not be turned back to their private owners (who continued to operate them during government seizure) as soon as the miners and operators could reach an agreement for peaceful operation.

The government as employer thus poses a serious problem for the future of collective bargaining. If the government continues to increase its industrial activities, the area of collective bargaining can be narrowed considerably. There are, however, strong possibilities that this dilemma can be averted. One way would be for the government to adopt different labor policies for its industrial activities than for its traditional functions. In some ways this is what Great Britain is doing in its nationalized indus-

¹ Data from U.S. Bureau of Census.

² *U.S. v. United Mine Workers*, 67 Sup. Ct. 677 (1947).

tries and what the federal government has done in such quasi-independent operations as the Tennessee Valley Authority.

Another, and in many ways more feasible, manner in which the dilemma of government as employer can be resolved is for both government and government employees to exercise that restraint which should characterize their relations in a democracy. For employees, this means voluntary relinquishment of the right to strike in recognition that, whatever the legal aspects of the problem, the general public is generally opposed to strikes of public workers. In return, the government should recognize that unions and collective bargaining have a role in government-employee relations, and that the fact that government employees do not use the strike weapon makes it essential that substitute methods of settlement and fair personnel practices be instituted. The latter is the more likely road of labor relations in the American government. Before, however, a labor relations policy for government employees can be worked out on the basis of these principles, a number of statutes and regulations must be clarified in regard to government labor's right to strike, to organize, and to bargain through unions.

THE SOVEREIGN EMPLOYER AND THE RIGHT TO STRIKE

Traditionally, the government as employer assumes that, since the government represents the sovereign power, it must reserve the sole right to determine the terms and conditions of employment under which its employees labor. In actual fact, however, the second premise does not follow the first. The essence of sovereignty includes the right to delegate authority. Hence, the sovereign power can delegate or share authority to determine the terms and conditions of employment. To a considerable extent, many governmental agencies actually do this, but many do not.³

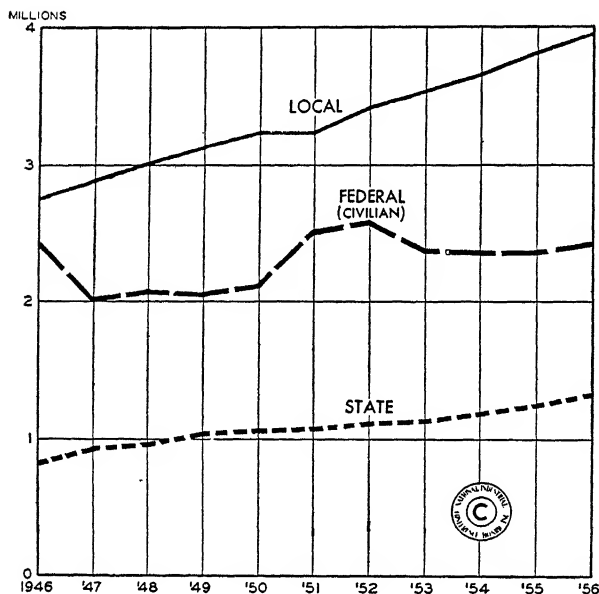
Probably no government body in the United States concedes the right of its employees to strike. A strike of government employees which results from dissatisfaction over wages, hours, and working conditions becomes, in the light of the principle of sovereignty, an insurrection against public authority. Despite the fact that thousands of government employees have struck at one time or another,⁴ a strike of public employees is greeted with extraordinary alarm and concern. Now if striking government employees are policemen or firemen or equally essential groups, it is easy to understand the public alarm. If these striking employees are

³ For an excellent discussion of this subject, see S. D. Spero, *Government as Employer* (New York: Remsen Press, 1948). Much of this discussion is based upon Dr. Spero's book.

⁴ David Ziskind, *One Thousand Strikes of Government Employees* (New York: Columbia University Press, 1940).

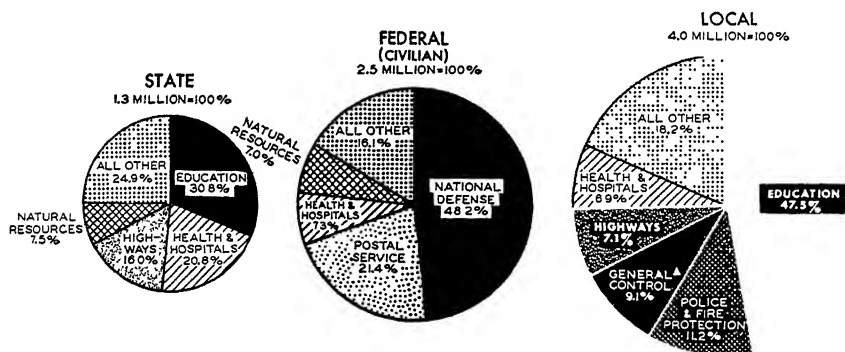
truck drivers or street laborers, the situation is a rather anomalous one. For these employees are not only not essential to the conduct of the community's business but they are, like many government employees, often less essential to the community than are the employees of many private concerns. For example, in New York City, a strike of employees of private tug boat operators literally shut down the city. If the employees of the Consolidated Edison Company, which supplies New York City with elec-

FIGURE 53
PUBLIC EMPLOYMENT
UNITED STATES, 1946-56



In 1956, there were 7.7 million civilian public employees, an increase of 1.7 million over the 1946 total. The 2.3 million public employees concerned with education and the 1.2 million engaged in national defense work accounted for about 45% of all governmental personnel in 1956. The term, "public employee," includes all paid officials and civilian employees of Federal, State, and local governmental units, except school board members. Employees of contractors, other persons serving governments on a contract basis, and persons on work relief are not considered public employees. Source: Bureau of Census

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▲ INCLUDES OFFICIALS AND EMPLOYEES ENGAGED IN LEGISLATIVE, EXECUTIVE, JUDICIAL, FISCAL MANAGEMENT, AND GENERAL ADMINISTRATIVE ACTIVITIES

FIGURE 53—Continued

	Federal (civilian)	State	Local
	(Thousands)		
1946.....	2,434	804	2,762
1947.....	2,002	909	2,880
1948.....	2,076	963	3,002
1949.....	2,047	1,037	3,119
1950.....	2,117	1,057	3,228
1951.....	2,515	1,070	3,218
1952.....	2,583	1,103	3,418
1953.....	2,385	1,129	3,533
1954.....	2,373	1,198	3,661
1955.....	2,378	1,250	3,804
1956.....	2,410	1,322	3,953
<u>1956, By Activities</u>			
Education.....	3a	407	1,876
National defense.....	1,162	b	...
Health and hospitals.....	175	275	273
General control.....	111a	75a	359
Postal service.....	516	...	...
Highways.....	4a	212	280
Police and fire protection.....	22a	26a	444
Natural resources.....	168	99	30a
Other(1).....	249a	228a	690a

(1) Includes such services as sanitation, water supply, transit, public welfare, and local parks and recreation.

a Included in the "all other" category shown on the front of the chart.

b Data for State National Guard activities included in "other."

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tric light and power, should strike, the effect could well be as catastrophic as a police strike. And when New York City transit employees were working for a private company, no one doubted their right to strike. Yet when the city took over these same transit companies, the transit employees were advised that they now had no right to strike since they were government employees.

Despite these anomalies, strikes of public employees both interfere with the efficient operation of government and are extremely unpopular with the general public. One result of this public disapproval has been a series of local, state, and federal laws penalizing striking government

employees. A wave of local ordinances and regulatory measures were adopted in 1919–20, after the Boston police strike of 1919, which were designed to outlaw public employee strikes, especially those by firemen and policemen; and a second wave of such ordinances followed in 1946–48.

The states began adopting similar public worker antistrike legislation in 1946, and by 1957, nine states had such laws on the books.⁵ One of these measures is New York's Condon-Wadlin Act of 1947 which was later copied in Pennsylvania and Minnesota, and with some modifications, by Ohio. It provides that (1) public employee strikers shall be immediately discharged; (2) if such strikers are eventually rehired, they shall receive no salary increases for a 3-year period over that which they were receiving when the strike occurred; and (3) rehired strikers shall be deemed temporary employees for a 5-year period and therefore subject to summary discharge. Moreover, the Condon-Wadlin Act defines a strike as an *individual* act of a person "who, without the lawful approval of his superior, fails to report for duty or otherwise absents himself from his position, or abstains in whole or in part from full, faithful and proper performance of his position." This definition can easily be used by administrators to discharge employees for any reason whatsoever.

The federal government has also outlawed public employee strikes. The Lloyd-LaFollette Act of 1912, which affirmed the right of postal employees to join unions, did not include within its protection organizations "affiliated with any outside organization imposing an obligation or duty upon them to engage in any strike, or proposing to assist them in any strike, against the United States." A "rider" attached to appropriation bills since 1946 forbids payment of salaries to federal employees who are members of an organization "asserting the right to strike against the United States." Then Congress included in the Taft-Hartley Act the following provision modeled upon New York State's Condon-Wadlin Act:

It shall be unlawful for any individual employed by the United States or any agency thereof including wholly owned government corporations to participate in any strike. Any individual employed by the United States or by any such agency, who strikes, shall be discharged immediately from his employment, and shall forfeit his civil service status, if any, and shall not be eligible for reemployment for three years by the United States or any such agency.

Even where such legislation does not exist, the courts have ruled that employees in the public service do not have the right to strike and

⁵ Virginia, Texas, Washington, Nebraska, Missouri, New York, Pennsylvania, Minnesota, and Ohio.

that public employees may be punished by discharge for striking.⁶ As a matter of fact, unions in the public service have rarely challenged this interpretation, since most of them do not take strike action. The main exception was the action of the United Public Workers, expelled from the CIO as Communist-dominated, at its 1946 convention in providing a procedure for strike action. This led directly to the 1946 Congressional riders forbidding payment of salaries to members of organizations "asserting the right to strike against the United States."

The main difficulty with negative antistrike laws is that they encourage government and administrators to ignore roots of discontent which are the main cause of strikes of both government and industrial workers.

THE RIGHT TO ORGANIZE AND TO BARGAIN COLLECTIVELY

The federal government concedes the right of its employees to organize and to bargain collectively through unions of the employees' own choosing. The main limitation is that, since 1946, these unions cannot assert "the right to strike against the United States."

Federal employees did not win these rights without a struggle. Commencing in the nineteenth century, but especially in the administrations of Theodore Roosevelt and William Howard Taft, federal employees were generally denied the right to form unions of their own choosing. Moreover, as a result of persistent attempts by postal employees to form unions and to improve their working conditions, President Theodore Roosevelt issued so-called "gag-rules" which forbade all federal employees from seeking to influence legislation either directly or indirectly through associations, or to appear before Congress except through the heads of departments. After a persistent campaign led by the American Federation of Labor, Congress in 1912 adopted the Lloyd-LaFollette Act which provides:

that membership in any society, association, club or other form of organization of postal employees not affiliated with any outside organization imposing an obligation or duty upon them to engage in any strike, or proposing to assist them in any strike, against the United States, having for its objects, among other things, improvements in the condition of labor of its members, including hours of labor and compensation therefor and leave of absence, by any person or groups of persons in said postal service, or the presenting by any such person or group of persons of any grievance or grievances to the Congress or any member thereof shall not constitute or be cause for reduction in rank or compensation or removal of such per-

⁶ *Norwalk Teachers' Assn. v. Board of Education*, 28 LRRM 2408.

son or groups of persons from said service. The right of persons employed in the civil service of the United States, either individually or collectively, to petition Congress, or any member thereof, or to furnish information to either House of Congress, or to any committee or member thereof, shall not be denied or interfered with.

Although the Lloyd-LaFollette Act applies only to postal employees, its principles have been made generally applicable to all federal workers. The Lloyd-LaFollette Act, moreover, grants the right of hearing and notice to permanent employees in the civil service, except employees of the State and Defense Departments and of the Atomic Energy Commission.

In addition to the protection of the Lloyd-LaFollette Act, employees in the federal service are entitled to review of dismissals by the Civil Service Commission. A Presidential directive has instructed department heads to carry out the Civil Service Commission's recommendations. Nevertheless, government employees are excluded from the coverage of the National Labor Relations Act, and the Lloyd-LaFollette Act does not confer rights upon government employees similar to those conferred upon industrial employees by the National Labor Relations Act. The Lloyd-LaFollette Act represents merely Congressional approval of government employee unionization, and in addition it sets forth a procedure which must be followed in instances of employee discharges from the federal service. Once the procedure is followed, discretion to discharge is with the administrator and the courts will not interfere.

Nor is this fact altered by the provision in the law governing employment in the post office which states that "No person in the classified civil service . . . shall be removed therefrom except for cause. . . . Membership in any society . . . or other form of organization of postal employees . . . shall not be the cause for reduction in rank or compensation or removal . . . from said service." According to Dr. Spero:

The net result of these provisions was that the postal authorities gave reasons other than the true ones for their action when seeking to remove or discipline an employee for activity arising out of organization membership. Thus they ordered the removal "for the good of the service," "for bringing the service into disrepute," "for conduct unbecoming a federal employee," "for making false and misleading statements." The postal authorities have found the law no obstacle in their efforts to get rid of troublesome organization members. Postmaster General Burleson, with the law fresh upon the books, discharged the national leaders of every AFL union of postal employees. His successors similarly had no difficulty in dropping workers who had come into conflict with the department during the

salary campaign of 1924-25, and Postmaster General Farley's administration under the New Deal made removals for organization activity as readily as its predecessors. So long as the courts refuse to go behind the stated reasons of the authorities in making removals forbidden by law, the guarantees of the law in its present form remain empty.⁷

State and Local Legislation

Following the Boston police strike in 1919, several communities enacted ordinances or regulations which not only severely penalized policemen or firemen who strike but also outlawed affiliation of police or firemen organizations with the general labor movement. In 1942, Dallas, Texas, enacted a law flatly forbidding employees to form unions. Following the doctrine enunciated in 1891 by Oliver Wendell Holmes,⁸ such ordinances have been held constitutional.

The municipal antistrike laws enacted after 1946 included a number of anti-affiliation and antiunionization provisions. In addition, the legislature of Virginia adopted a resolution declaring it to be contrary to the public policy of that state "for any state or local official to recognize or negotiate with a labor union as a representative of public employees." In 1940, Alabama's legislature resolved that it "viewed with grave concern and disfavor" any "effort to organize state employees." And in 1946, Texas forbade collective bargaining in the public service and representation of state employees by "outsiders."

Nevertheless, collective bargaining exists in both the state and municipal service. Even in Texas, it is not unknown. A large Texas city took over and now operates a former privately run public utility. The employees, who were represented by their AFL union under private ownership, now meet with the public administrator and discuss (not negotiate!) wages and working conditions. Meanwhile, the employees have conferred with their same union representative who is always at a local hotel when these "discussions" occur. When the discussions are concluded, the administrator publishes them under his signature and abides by them just as if they were in a labor agreement.

Although collective bargaining does exist in the state and municipal public service, it is not so widespread. Moreover, the extent of civil service protection afforded state and municipal employees is generally less than in the federal service, but even where civil service exists, it provides little protection if the administrator cares to circumvent it.

⁷ Spero, *op. cit.*, p. 42.

⁸ "The petitioner may have a constitutional right to talk politics but he has no constitutional right to be a policeman." *McAuliffe v. Mayor of Bedford*, 115 Mass. 216 (1891).

So long as the correct procedure is followed, dismissals can be made. The belief that a government job is "secure" is a persistent misconception that belies the actual facts. In many instances, the right of the government administrator to discipline and to discharge is as great as the right of the executive in business. Moreover, government employees may also be discharged as security risks, or as political administrations change; government employees who thought they had civil service protection may find that protection removed by executive order. And, finally, government employees have no such protection against discharges for union activity as do employees in private industry subject to the Taft-Hartley Act.

COLLECTIVE BARGAINING IN THE PUBLIC SERVICE

Despite the difficulties placed in the path of unionism in the public service, more than 1 million government workers were members of AFL-CIO and independent unions in 1958, and scores of local, state, and federal agencies bargained with organizations of their employees.⁹

Civil Service and Collective Bargaining

Under present federal legislative practice, Congress enacts into law certain specific salaries and salary grades for most federal government employees. Moreover, most federal employees are covered by civil service regulations which prescribe generally the terms and conditions of employment. This had led many people to question what useful purpose a labor organization of federal government employees can perform. Actually, however, in the federal government as in any other employment, relations between supervisors and workers result in grievances and other employment problems which are best resolved through collective bargaining. Much discretion is lodged in the administrators of government departments and bureaus to promote, penalize, and otherwise to affect the careers of personnel. Only through collective bargaining can grievances of employees be satisfactorily adjustable. This is true for government employees as well as for employees of private concerns.

The general principle followed in collective bargaining in the government service is that administrators may bargain with unions of their employees on matters over which the administrator has authority or discretion. Obviously, if Congress provides by statute that the wage for a certain group of employees shall be a specific amount, the administrator cannot alter that wage. Obviously also, if employees are hired pursuant to civil service regulations, the closed shop or other forms of union

⁹ Data from U.S. Department of Labor.

security which make jobs dependent upon union membership are incompatible with civil service regulations and therefore cannot be entered into. On the other hand, in such agencies as the Tennessee Valley Authority, to which Congress has given considerable discretion in handling employee relations, collective bargaining can be more inclusive.

Many government departments have denied that they have authority to enter into written collective agreements. Again, however, this policy is largely unrealistic so long as the written agreements do not exceed the administrator's authority to delegate power or to use his discretion. As a matter of fact, such government agencies as the Tennessee Valley Authority, the Bonneville Power Administration, the Alaskan Railroad, and, during its existence, the New York Regional Office of the War Labor Board have all entered into collective agreements. Other agencies and departments approximate the written collective agreement by having the administrator or personnel office post upon a bulletin board matters that have been agreed to by unions and the administration. Still others operate merely by verbal understandings. As long as relationships are conducted on a high plane, the type of agreement is not of paramount importance.

State and Local Governments

In state and local employment, the principles under civil service regulations of these governmental bodies are no different. There are, however, two aspects which have differentiated relationships somewhat. The first is that collective bargaining on the state and local levels is frequently the subject of legal attack which usually stems from the disinclination of officials to enter into collective bargaining agreements and their attempts to rationalize this refusal by declaring that they have no authority to engage in collective bargaining. Actually, the law on the subject is slight. So long as legislation to the contrary does not exist, and so long as no terms of the collective agreement violate existing legislation dealing with terms and conditions of employment for public workers, there does not seem to be any bar to collective bargaining in state and local employment.

The other fact which distinguishes federal employment from that of states and municipalities is the extent of civil service. Especially in municipalities, civil service coverage is much less widespread. Where civil service does not exist, and where employment terms are not written into law, collective bargaining is not so limited and closely approaches collective bargaining in private industry.

Recently, the cities of Philadelphia and New York have decided

to enter into formal collective bargaining agreements with their employees—in most cases formalizing arrangements which have been in existence on an informal basis for many years. In addition, New York City has enacted a labor relations code for its employees which embodies most of the features of New York State's "Little Wagner" Act. This type of labor code may well spread to other cities.

A POLICY FOR GOVERNMENT EMPLOYMENT

Efficient government requires an efficient employee force. To maintain morale and efficiency on a high level, it is imperative that all government levels develop advanced personnel programs. Such programs could well recognize the following points:

1. That collective bargaining is the only method thus far developed by which employees may secure an effective voice in wages, hours, and working conditions. Since this is true of employees in public, as well as those in private, industry, no bars should be placed in the way of collective bargaining.

2. That collective bargaining in the public service should concern itself with those items over which the administrator has discretion.

3. That public employees should not use the strike weapon. In return, public employees should be guaranteed wages, hours, and conditions of employment in line with those paid in comparable jobs in private industry.

4. That restrictive antistrike legislation, such as contained in New York's Condon-Wadlin Law, which goes beyond merely forbidding a strike, does not contribute to good employee relations in the public service.

If governmental authority and labor's right to organize and to bargain collectively are not to clash head-on, a compromise solution must be worked out. In the words of one authority:

The public services are expanding and the number of workers in the employ of the government is constantly increasing. The American public service, quite as much as the service of any other country, needs such criticism of its management and such a check upon its authority as only independent employee organizations, supported by a free labor movement, can give. Yet it still remains the duty of government to see to it that the public services operate for the benefit of the whole public. It is out of the inevitable conflicts inherent in this situation that problems of employer-employee relations arise in the government service. Fundamentally these problems are a phase of the perennial conflict between authority and liberty in a free society. The issue admits of no final solution but only of working arrangements which leave intact the basic claims of each party. If government presses its

sovereign authority to its logical end, it may destroy freedom. If the employees of government fully exercise their collective pressure in their own behalf, they may undermine the public security upon which freedom rests. The life of a free society depends upon the maintenance of freedom and authority in delicate balance. The preservation of this balance depends in turn upon mutual restraint on the part of both government and its employees founded upon the recognition of the fact that in real life there is neither complete liberty nor absolute sovereignty.¹⁰

QUESTIONS FOR DISCUSSION

1. Discuss the arguments for and against collective bargaining on the part of employees of the federal government. How have the rights of federal government employees to bargain collectively been restricted?
2. Should employees of governmental agencies which perform business or industrial functions have a right to strike?

SUGGESTIONS FOR FURTHER READING

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¹⁰ Spero, *op. cit.*, pp. 486-87.

Chapter 27

THE FUTURE OF NATIONAL LABOR POLICY

The present labor policy of the United States, as embodied in state and federal legislation and action, may be said to have five, or possibly six, principal aspects: (1) protection of workers from the risks and hazards of industry through state workmen's compensation acts and state and federal social security legislation; (2) maintenance of minimum labor standards by means of state and federal minimum-wage and maximum-hours legislation; (3) encouragement of collective bargaining by protecting the right of labor to organize through legislation, such as the National Labor Relations Act and similar state laws, and by aiding the peaceful settlement of labor disputes through federal and state mediation agencies; (4) regulation of those activities of unions which are considered contrary to the public interest by such instruments as the Taft-Hartley amendments to the National Labor Relations Act and by similar state laws; (5) protection of workers against discrimination in employment on the grounds of race, color, creed, or national origin—a new development exemplified by fair employment practice legislation.

There is in addition a sixth aspect which, as yet, has not been translated into action but which is very important. This involves encouragement and fostering by the federal government of reasonably full employment.

DEVELOPMENT OF LABOR POLICY

The labor policy of the United States has developed slowly and haltingly. No one court decision or legislative act can be singled out as representing the beginning of governmental labor policy. Much of our present policy, it is true, stems from the great depression and the period of the Roosevelt administration, during which great strides were made toward formulating present labor policies. Nevertheless, each period of history has made some contribution to the present status of labor legislation and

governmental action. For example, even the most revolutionary of all labor laws—the National Labor Relations Act—had its roots in state and railway labor legislation of the 1890's.

At various stages of American labor history, different aspects of labor policy have been stressed by legislators and labor leaders. For example, encouragement of collective bargaining by protecting the right of labor to organize was of prime importance in our labor policy in the period from the birth of the National Recovery Administration to enactment of the National Labor Relations Act. Restraints on activities of unions were especially emphasized in the post-World War II era, representing in part a reaction to certain alleged excesses of unions during the period of unrestricted union organization. Labor policy is thus continually evolving. Laws are passed which at the time may represent majority thinking. But majority thinking is not static, and as views alter, labor legislation reflects the changing trend in public opinion.

It is natural to assume, therefore, that labor policy will continue to evolve in the future. While many future developments cannot be predicted, certain trends are already evident. Thus, for example, a developing labor policy will undoubtedly include measures extending the coverage of minimum wages and broadening social security, as well as further legislative attempts to solve the problem of strikes which endanger public health and safety. The deficiencies of present legislation with respect to each of these aspects of labor policy have already received consideration in earlier chapters of this book and need not be reiterated. Furthermore, recent disclosures of abuses in the handling of union funds will probably lead to legislation requiring more detailed annual accounting with respect to union funds and pension trusts.

But in addition to the specific problems for which a developing labor policy must find a solution in the future, there are also certain general problems concerning labor policy as a whole which merit the attention of labor, industry, legislators, and students of labor. It is to these broad considerations of policy that we now turn our attention.

NEED FOR INTEGRATION OF LABOR POLICY

The United States needs *a* labor policy. At the present time, it has no labor policy but rather a patchwork of policies, comprehensive but not consistent. There is, for example, no uniformity of treatment among the states. State labor relations, workmen's compensation, unemployment insurance, and minimum wage laws differ widely. The accident of location determines the extent of employee protection.

Nor is there any agreement between the states and the federal government as to areas of regulation. As a result, state and federal laws are frequently contrary in purpose, inconsistent in approach, and diverse in administration. Federal laws such as the Taft-Hartley Act and the unemployment compensation sections of the Social Security Act, which invite, and give priority to, state legislation, encourage complicated, diverse state laws and inconsistent state-federal legislative relationships.

Even within the federal framework of legislation there is no consistency. Railway and airline employees and employers who come under the Railway Labor Act have rights and duties different from those of their fellow employees and employers who come under the National Labor Relations Act. Likewise, the railway industry has a separate social security system, while airline pilots have a special (and extraordinary) minimum wage law. Before the Taft-Hartley amendments to the National Labor Relations Act, the latter law and the Norris-LaGuardia Act were so at odds that powerful unions were able to utilize the protection of the Norris-LaGuardia Act to nullify rights guaranteed to employees by the National Labor Relations Act.

There is also inconsistency of purpose between the two current goals of labor policy—promoting collective bargaining and regulating certain union activities. Although some such inconsistency may be unavoidable, the extent of the present conflict between harsh state laws, which have as their primary objective the regulation of unions, and federal laws intended to encourage collective bargaining would appear capable of being lessened.

The fact that there are basic conflicts in the national labor policy should not be surprising. Indeed, all things considered, perhaps it is surprising that there are not more inconsistencies in existing legislation. Labor legislation is enacted in response to pressure of public opinion and influences exerted by various interest groups. In some states, labor's political position is strong; in others it is weak. State labor laws reflect this fact.

Moreover, neither labor nor industry alone can command sufficient votes to sway Congress. When in disagreement over legislation, both must appeal for support to that huge, vague group known as the "middle class," which holds the balance of power in our society, insofar as such a balance exists. As the electorate shifts first one way and then another, the complexion of Congress and state legislatures changes. Legislation in the highly controversial field of labor relations reflects these changes.

Undoubtedly, better legislation would result if labor and industry, aided by experts in this field, could agree on a comprehensive program for

a national labor policy. There is a real need for a general overhauling of our disjointed system of conflicting and overlapping labor laws. Even if agreement could not be reached as to the basis on which such laws should be improved, it might at least be possible to achieve a greater degree of uniformity than now exists between the various state laws. Unfortunately, however, achievement even of such limited agreement is not too likely in view of the basic conflicts of interest, not only between labor and industry but also within both labor and industry groups. The present system of push-and-pull of pressure groups to secure labor legislation favorable to themselves is likely to remain with us for some time to come.

NEED FOR DEFINING ROLE OF UNIONS AND MANAGEMENT

In Chapter 4, we considered the problem of defining the scope of managerial prerogatives. We need not repeat here the considerations there discussed. Suffice it to say that the problem of preserving entrepreneurial freedom to manage business while affording union membership security will be telescoped in importance in coming years by the ever-growing extent of union demands. Although union leaders, by and large, believe in maintenance of the American system of free enterprise, their continuing search for means to afford security to their membership must inevitably produce a narrowing of the area of business initiative. Layoffs, technological change, and production policies are likely to be moved more and more into the orbit of union consultation and control. Union attempts to prove management's ability to pay higher wages and other benefits will lead to increasing interest by unions in company accounting systems and managerial policies.

No one can say where the ever-widening scope of union demands will end. It is safe to hazard a guess, however, that labor and management in the United States will ultimately work out a *modus vivendi* which will differ from that reached in other countries and which will reflect the peculiar character of American democracy and the American industrial environment. Such a compromise must recognize the basic need of the worker to feel secure in his job and to participate fully in the industrial process. At the same time, it is important that management be left free to plan, to invent, and to improve production methods so that not only labor but also the public at large may benefit from the efficiency of the capitalistic system.

NEED FOR DEFINING ROLE OF INDUSTRY AND GOVERNMENT

The problem of demarcating the respective scopes of unions and management has its counterpart in the larger social question of the proper balance between individual initiative and government control. This basic issue is met not only in debates over the merits of government control or ownership of utilities but also in the development of labor policy. It seems clear that in coming years union organizations will attempt to saddle industry with new and heavy obligations growing out of the worker's need for security. Unions have seized upon the idea that industry should provide for depreciation of the human machine in the same way that it provides for depreciation of capital equipment. This idea has been given concrete form in demands for liberalized pensions, health insurance, life insurance, free dental care, and other benefits. The basic question is whether such benefits—assuming they are justified—should be provided by industry or government.

The notion that industry, on its own initiative, should amortize its human costs in the same manner as it has customarily amortized its mechanical costs is an attractive one; yet it must be recognized that there are definite shortcomings to this view. The primary difficulty in having pension, supplementary unemployment benefit, or other plans financed and administered by individual firms without any over-all supervision or integration by government is that such plans are bound to differ from one company to another. As a consequence, they are likely to be haphazard and incomplete in their coverage, unequal in the amount of their benefits, and unduly favorable to workers who happen to have the good fortune either to be members of strong unions or to work for prosperous concerns. Strong unions, like the United Mine Workers, have already demonstrated their ability to require employers to make enormous contributions to employee welfare funds. This success is unlikely to be duplicated by unions less strategically located.

A further element of unfairness in leaving the settlement of pensions and other aspects of a welfare program to the processes of collective bargaining is that the costs of such programs must ultimately be borne by all consumers in the form of lower real income, since, to the extent that companies bear the cost of pension plans, costs and prices of their products will tend to rise. This means that the public generally must pay for the disproportionate benefits which may be obtained by strong unions in particular industries. Moreover, as long as welfare plans remain a matter

for collective bargaining, there will be constant rivalry among unions in various industries to increase the amount of benefits obtained for their membership in order to outdo other unions. The consequences of such rivalry upon industrial costs, profits, and employment could be serious.

The alternative to individual company welfare plans is government benefits under an expanded and liberalized social security program. This approach has the advantage of enabling workers to share equally in benefits regardless of whether they are organized or unorganized, members of strong unions or of weak unions. Moreover, the principle has already been established under the Social Security Act that workers should contribute to support of the cost of the program—a principle which seems to commend itself for its fairness. But an expanded government administered welfare program for employees also has its drawbacks. It means rising taxes, increasing bureaucracy, and growing intervention by labor in politics so as to make its influence and demands felt in determination of the extent and disposition of benefits. Pensions are, of course, only the beginning. The politics of union organization require that union leaders, in order to retain the allegiance of their membership, must constantly obtain new benefits for employees. If government, rather than employers, becomes the fount from which new benefits are to be sought, labor may use its political influence to obtain for American workers a "cradle to the grave" welfare program similar to that obtained by British labor from its Labor Government. Such a development would bring the welfare state to America.

Employee demands for protection against insecurity thus present industry with a challenge and a dilemma. Either industry must accept its responsibilities and take the initiative in developing a broad program designed to protect workers from the risks and hazards of industrial life—with unforeseen consequences upon costs, profits, and employment—or labor may take the other road, which leads to increasing government regulation and taxation of industry and to increasing dependence by workers upon the government to solve their problems. The decisions made with respect to this aspect of labor policy may thus have profound repercussions upon the pattern of American economic life and may influence the nature of the balance which is ultimately struck between government regulation and individual enterprise in our economy.

LABOR POLICY IN A DEMOCRACY

A cornerstone of our democratic form of government has been the use of national policy to control great aggrandizements of power. As a

nation, we have long recognized that when particular groups become so powerful that their actions can seriously interfere with market processes and endanger the public interest, government regulation may be required. Thus, the Sherman Antitrust Act recognized the evils inherent in combinations of corporations designed to restrain trade or monopolize an industry. Likewise, our graduated income tax and heavy estate tax were intended, in part, to restrict the concentration of economic and political power which would flow from the amassing of great fortunes passed on from generation to generation without tax.

With this history of the role of governmental regulation in our democratic society, it seems almost inevitable that the extent of regulation of unions will expand as they grow in strength and economic power. To date, the function of government has been primarily to provide the basis for equality of bargaining power between management and labor. The Wagner Act sought to prevent large strongly entrenched corporations from using their power to throttle unions in their infancy by resort to discriminatory practices. Then, as unions grew in membership and strength, the need for such one-sided intervention in the labor market lessened, and Congress enacted the Taft-Hartley Act in an effort to pare down some of the rights given unions and to equalize bargaining power in the labor market.

It might be thought that with the development of strong union organization and the achievement of relative equality in bargaining power between industry and labor, government could now withdraw to the sidelines and let the parties fight it out. Unfortunately, however, the very equality of power between the parties in mass-production industries where strong unions confront large corporations, each with extensive financial resources, increases the possibility of prolonged work stoppages with their attendant inconvenience to the public. There are, of course, some persons who believe that the only way to deal with this problem of the battle of the giants is to restore the working of a free market by breaking up unions and large corporations—by “atomizing” competition, as it is called—so that the unions and corporations which are left to deal with each other will be too small to affect seriously the market or the public by reason of their occasional disputes. This possibility, whether or not desirable in theory, is plainly impractical. Our industrial system, as now constituted, is too dependent upon our large integrated corporations to warrant such a change, and so long as corporate units remain large, union organizations must also be large in order to bargain effectively for their membership.

The struggle between strong unions and large corporations will lead

to a demand by the public for further government regulation of union activities. The pressure for such action will grow if the present inflationary spiral continues; for many people have come to believe—either rightly or wrongly—that union demands for wage increases—backed up by the threat of the strike—have been the major cause for the upward trend in prices. The result may be further restriction of certain rights—such as the right to strike—which unions believe are fundamental to our democracy. But there are few absolute rights in our society. Rights are implicit with obligations. We cherish freedom of speech, but a man cannot yell “fire” without cause in a crowded theatre. A democratic society can afford to give rights and privileges to groups only if those rights and privileges will not be abused and the rights of the public will be respected. The more powerful an organization becomes, the greater is the damage which it can inflict upon society by abuse of its rights and therefore the more circumspect must society be to see that such organizations respect their obligations to the community. Today the existence of nonunion competition is a powerful brake on possible abuses of union bargaining power in many industries, just as the existence of strong competition is a brake on the abuses of corporate power. If unions gradually eliminate such nonunion competition, the chance for abuse of power will be accentuated, and a real test will be presented for enlightened labor leadership. Unless union leaders exercise real self-restraint in exercise of their powers, they may find that government will prescribe the restraints.

Labor policy in a democracy should recognize that government regulation is not a panacea. Every walkout which inconveniences the public should not be met with a demand that “there ought to be a law.” Free unionism and free collective bargaining are institutions which are worth preserving. By contrast, the growth of government bureaucracy and the intervention of government in the labor market are tendencies which should not lightly be encouraged. In labor policy, as in other national policies, we must follow the middle road. As a general rule, labor and industry should be given every opportunity to work out their problems without government regulation, except in situations where injury to the public is apparent and substantial, and the justification from the point of view of legitimate union conduct is lacking.

The obligations of unions in a free society have yet to be clearly defined. We have been too concerned thus far with the rights of labor to consider its duties. But with the coming of age of organized labor, there is bound to be a change in viewpoint on the part of the public and of the legislature, just as there was in the case of private corporations. Delineation of the obligations of unions would help to clarify, in part, the role of

government and of industry, as well. Whatever the ultimate role which government, industry, and unions will play in our society, we may be sure that it will follow a pattern reflecting the needs of our highly integrated industrial economy and the traditional concepts of our democratic society.

QUESTIONS FOR DISCUSSION

1. What are some inconsistencies in federal-state labor-law relationships? Appraise the possibility and advantages and disadvantages of eliminating such inconsistencies.
2. Should unions and/or corporations be reduced to local organizations?
3. Do you favor the government or unions or neither as dispensers of social welfare benefits?

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Indexes

INDEX OF AUTHORS CITED

- Abegglen, J. C., 264
 Anderson, B. M., 554
 Arnold, S., 365

 Backman, J., 454
 Baldwin, G. B., 214
 Bambrick, J. J., Jr., 116
 Barbash, J., 135, 227
 Barkin, S., 328, 407
 Becker, J. M., 634
 Beideman, G. M., 629-30, 634
 Belfer, N., 319
 Berle, A. A., 23
 Bernheim, A. L., 734
 Bernstein, P. L., 409, 411, 758
 Bing, A., 744
 Black, J., 547
 Bloom, G. F., 307, 319, 465, 468, 477
 von Böhm-Bawerk, E., 523
 Boothe, V., 365
 Bratt, E. C., 436
 Brinberg, H. R., 538
 Brooks, G., 83, 552
 Brower, F. B., 179, 185, 586, 589
 Brown, E. C., 729
 Burns, E. M., 558-600, 616, 642

 Cahill, M. C., 522
 Campbell, R. R., 651
 Campbell, W. G., 651
 Centers, R., 23
 Chamberlain, N., 162, 169
 Chamberlin, E. H., 245
 Civic, M., 490, 577, 601
 Clark, C., 519
 Commons, J. R., 36, 668
 Cooke, M., 175
 Corson, J. J., 589
 Couper, W. J., 743
 Cox, A., 687, 729

 Daugherty, C. R., 524
 David, L. M., 250
 Davis, J. S., 281
 Davis, M., 650
 Dawson, M., 642
 Diebold, J., 373, 461, 465
 Dobb, M., 316
 Douglas, P., 327, 415, 525, 547
 Douty, H. M., 260, 495
 Dulles, F. R., 83

 Dunlop, J. T., 33, 71, 321-22, 330-31, 339-40, 342, 348, 416, 420, 437, 598
 Durand, D., 547
 Drucker, P. S., 25, 160, 459-60

 Ellis, H. S., 452
 Estey, J., 421

 Fabricant, S., 453
 Feinsinger, N. P., 688
 Fisher, L. H., 221, 223, 239
 Fox, H., 588, 663
 Friedman, M., 120, 401-4

 Gaffey, J. D., 542
 Garbarino, J. W., 381
 Garceau, O., 106, 120
 Gill, C., 361
 Golden, C. S., 462, 464
 Goldner, W., 263
 Graham, B., 553
 Greenberg, L., 458
 Gregory, C. O., 37, 667, 677, 680, 684, 688, 692

 Habbe, S., 543
 Haberler, G., 398, 400, 407
 Hansen, A., 360, 372, 421, 433, 437, 452
 Hardman, J. B. S., 27
 Harris, H., 170
 Harris, S., 362
 Hawley, C., 169
 Hawtrey, R. G., 426
 Hazard, L., 346
 Herberg, W., 70, 122, 126, 135
 Hicks, J. R., 286, 419, 468, 477
 Hill, L. H., 161
 Hinrichs, A. F., 495
 Homan, P. T., 452, 554
 Hook, C. R., 161
 Hotchkiss, W. E., 745
 Hoxie, R. F., 36, 50

 Jaffe, L. J., 746

 Kahn, M. L., 741
 Kaltenborn, H. S., 731, 734-35, 739, 752, 758
 Kaplan, I., 465
 Keiper, J. S., 644, 649
 Kennedy, J. B., 657

- Kennedy, V. D., 185
 Kerr, C., 221, 223, 239, 510, 517-18, 557
 Keynes, J. M., 312, 393, 411, 421
 Killingsworth, C. C., 764, 775
 King, W. I., 359, 442, 520
 Kondratieff, N., 363
 Kossoris, M. D., 645
 Kuznets, S., 120, 366, 428

 Latimer, M. W., 657
 Lawshe, C. H., 27
 Lester, R. A., 175, 221, 223, 238-39, 243, 252, 319, 504, 507
 Lieberman, E., 688
 Lindblom, C. E., 233, 234, 238, 345, 408, 411
 Long, C., 6
 Long, C. D., Jr., 361

 McCabe, D. A., 173
 McConnell, J. W., 589
 Machlup, F., 319, 452, 554
 Maher, J. E., 262, 264
 Marquand, J. P., 169
 Marshall, A., 385
 Marx, K., 519
 Menderhausen, H., 547
 Meyers, F., 191
 Meyers, J., 70
 Mill, J. S., 289
 Millis, J. A., 36, 66, 548, 667, 674, 729
 Mills, F. C., 454, 458
 Moloney, J. F., 494
 Montgomery, A., 429
 Montgomery, R. E., 36, 66, 548, 667, 674
 Moore, G. H., 436
 Morton, W. A., 398, 400, 408, 411
 Murray, P., 18, 175, 621
 Myers, C. A., 261, 263, 264

 Nathan, R., 413
 Neufeld, M., 27
 Northrup, H. R., 538, 741-24, 755, 758, 775
 Nourse, E. G., 378
 Nunn, W. L., 739

 Ober, H., 250

 Patterson, D., 243
 Pearl, R., 280
 Pierson, F. C., 348
 Pigou, A. C., 476
 Pool, A. G., 436

 Rees, A., 402
 Reynolds, L. G., 125, 243, 264, 287
 Ricardo, D., 280
 Rice, W. G., Jr., 746
 Richberg, D. R., 235, 239

 Robbins, R. B., 599
 Robie, E. A., 175
 Robinson, J., 352, 369
 Roll, E., 290
 Roos, C. F., 361, 426, 546, 550, 554
 Ross, A. M., 230, 244, 263, 324, 331, 341, 348, 415, 420
 Rowe, E. K., 658
 Ruttenberg, H. J., 462, 464

 Sayles, L. R., 136
 Schumpeter, J. A., 358
 Seager, H. R., 745
 Selekmán, B. M., 141, 169, 177, 212, 477
 Selekmán, S. K., 477
 Serbein, O. N., 663
 Shister, J., 221, 223, 239, 416
 Shultz, G. P., 214, 261, 341
 Slichter, S. H., 12-14, 174, 175, 186, 197, 198, 211, 212, 216, 225, 243, 329, 404, 405, 415, 423, 449, 456, 468, 474, 523, 547, 548, 594, 596, 632, 633, 690, 705, 718, 729, 796
 Somers, A., 643, 663
 Somers, H., 643, 663
 Spero, S. D., 777, 783, 787
 Stagner, R., 239
 Stewart, B. M., 743
 Strauss, G., 136
 Sweezy, P. M., 388

 Taft, P., 70, 95-97, 99, 121-22
 Tanenhaus, J., 687
 Taussig, F. W., 448
 Taylor, G. W., 348
 Tiffin, J., 258

 Van Dorn, D., 734
 Van Sickle, J. V., 504, 506
 Vernon, H. M., 549

 Ware, N. J., 36
 Warner, W. L., 267
 Weintraub, D., 465
 Weiss, A., 658
 Wermel, M. T., 629, 630, 634
 Whyte, W. H., 169
 Williams, J. H., 452
 Williamson, S. T., 170
 Witte, E. E., 674, 688, 736
 Wolman, L., 237, 437
 Woytinsky, W. S., 4, 171, 173, 249, 256, 260, 350, 352, 353, 375, 376, 381, 398
 Wright, D. M., 401
 Wrong, D. H., 281

 Yoder, D., 243

 Ziskind, D., 777

SUBJECT INDEX

A

Adamson Act, 51, 527
 Adkins case, 486
 AFL; *see* American Federation of Labor
 AFL-CIO, *see* American Federation of Labor-
 Congress of Industrial Organizations
 Air Line Pilots' Association, 91, 109
 American Federation of Labor, 41, 42 ff.,
 544, 657-58, 781
 American Federation of Labor-Congress of
 Industrial Organizations, 71-74, 114 ff.,
 237
 Ethical Practices Committee, 135
 government of, 130-35
 Annual improvement factor; *see* Improve-
 ment factor, annual
 Annual wage guarantees, 626-28
 Antidiscrimination laws, 769-74
 Antiracketeering law, 699
 Antitrust laws, 672, 681-82
 Apprenticeship regulation, 192-94
 Arbitration, 754 ff.
 Automation, 372-73, 461; *see also* Mechan-
 ization
 Automobile industry, 60-61, 171; *see also*
 General Motors Corporation; Ford Mo-
 tor Company; Chrysler Corporation
 Automobile Workers, United (or Automo-
 bile, Aircraft, and Agricultural Imple-
 ment Workers, United), 68, 71, 77, 84,
 85, 90, 95, 97, 98, 101, 102, 103, 106,
 107, 150-53, 323, 333, 404, 586, 588,
 625-26, 632, 716

B

Barbers' Union, Journeymen, 337
 Beck, Dave, 76, 79, 98, 128, 728
 Berry, George, 99
 Blacksmiths, Drop Forgers and Helpers,
 Brotherhood of, 86
 Boycotts, 677-78, 681, 711-13; *see also*
 Norris-LaGuardia Anti-injunction Act;
 State labor relations legislation; Taft-
 Hartley Act
 Brewery Workers, United, 94
 Bricklayers, Masons and Plasterers Interna-
 tional Union, 85, 103, 118, 167
 Bridges, Harry, 68
 Browder, Earl, 65, 67
 Building trades unions, 211

Burns, A. F., 378-79
 Business cycles, 412-43
 causes of, 413-14
 effect of unions on wage lag in, 414-18
 effect of unions on wage rigidity in, 418-
 19
 unions and, 412 ff.
 wage increases during depression, 425-28
 wage movements in, 412 ff.
 wage policy as a recovery measure, 420-29
 wage reduction in depression, 421-25

C

Carnegie, Andrew, 47
 Carpenters and Joiners, United Brotherhood
 of, 54, 73, 77, 92, 96
 Catholic Trade Unionists, Association of,
 69-71
 Checkoff; *see* Union security
 Ching, Cyrus, 735
 Chrysler Corporation, 61
 CIO, *see* Congress of Industrial Organiza-
 tions
 Civil service; *see* Government employees,
 collective bargaining by
 Clayton Act, 46, 51, 236, 672; *see also* Nor-
 ris-LaGuardia Anti-injunction Act
 Closed shop; *see* Union security
 Closed unions, 119-20, 198-99
 Clothing Workers, Amalgamated, 55, 56, 85,
 98, 124, 175, 328, 620, 658
 Coal industry, 389-92
 Co-determinism, 475
 Cole, David, 87, 735
 Communists and Communist unionism, 62,
 64 ff., 198, 463, 715-16
 Compulsory retirement, 582-83, 589-90,
 593-94
 Conciliation, 730-36
 Condon-Wadlin Act, 780, 786
 Congress of Industrial Organizations, 58 ff.,
 405
 Conspiracy doctrine, 20, 36-37, 667-68
 Curran, Joseph, 68

D

Davis-Bacon Act, 485
 Debs, Eugene, 670
 Diminishing returns, laws of, 297-99
 Disability insurance
 permanent and total, 583-84
 temporary, 645-50
 Dismissal wage, 205, 620-25

Dubinsky, David, 58, 65
 Durkin, Martin, 80

E

Efficiency; *see also* Productivity; Unions, and industrial research; Union-management co-operation; Wage pressure, and invention and business cycles, 430-33
 human factor in, 459-61
 and shorter hours, 535 ff.
 and unions, 459 ff.
 Eisenhower, Dwight D., 80, 653, 656, 728
 Elasticity, concept of, 268-69
 Electrical, Radio and Machine Workers, International Union, 68
 Electrical, Radio and Machine Workers, United, 68
 Electrical Workers, International Brotherhood of, 77, 84, 91
 Emergency wage regulation, 509 ff.
 effects of, 511-12
 during Korean war, 514-17
 during World War II, 509-12
 Employers, definition of, 4-5
 Employment; *see also* Labor force full; *see* Full employment policies and hours reduction, 544 ff.
 wage changes and, 382 ff., 420-29, 490-504
 Employment Act of 1946, 377-78
 Entrance to the trade, control of, 192 ff.
 Escalator clauses, 332-34, 417

F

Fact finding in labor disputes, 732, 754 ff.
 Fair employment practice legislation, 769-774
 Fair Labor Standards Act, 481-86, 491 ff., 525, 527, 530, 531
 Fay, Joe, 128-29
 Featherbedding; *see* Make-work policies
 Federal Mediation and Conciliation Service, 735-36
 Ford Motor Company, 61, 330
 Foster, William Z., 64-65, 67
 Free speech
 and picketing, 683-87
 and Taft-Hartley Act, 704-6
 Fringe benefits, 180-83, 343; *see also* Annual wage guarantees, Dismissal wage; Health and welfare plans; Pensions, private or bargained
 Full employment policies, 376 ff.
 Fur and Leather Workers Union, International, 65, 177

G

General Motors Corporation, 61, 63, 106, 150-52, 168, 330, 332, 450, 463, 517

Glass Bottle Blowers Association, 90
 Gompers, Samuel, 42, 43 ff., 80-81, 658
 Government employees, collective bargaining by, 776 ff.
 Green, William, 53-54
 Grievance machinery, 143-44, 154 ff.
 Guaranteed annual wages; *see* Annual wage guarantees

H

Hanna, Mark, 47
 Hatters, Cap and Millinery Workers, United, 336
 Health insurance, 650-53
 Health and welfare plans, 653-63
 Hebrew Trades, United, 70
 Helstein, Ralph, 99
 Hillman, Sidney, 58, 98
 Hiring, control of, 195-99
 Hiring halls, 197-99
 Hobbs Anti-Racketeering Law, 699
 Hod Carriers, Building and Common Laborers Union, International, 93, 113
 Hosiery Workers, American Federation of, 214, 329, 340, 423
 Hours of work, reduction in, 519 ff.
 arguments for, 531 ff.
 history of movement, 524 ff.
 Hutcheson, Maurice, 73, 97
 Hutcheson, William D., 81, 97-98

I

Improvement factor, annual, 337, 450-57;
 see also Productivity
 Industrial Workers of the World, 49 ff.
 Inflation, 333, 397-411, 455-58, 512-14
 Injunction, 20-21, 45-46, 670-72; *see also* Norris-LaGuardia Anti-injunction Act; State labor relations legislation; Taft-Hartley Act
 Invention; *see* Wage pressure, and invention
 Iron, Steel and Tin Workers, Amalgamated Association of, 47-48, 55, 58
 IWW; *see* Industrial Workers of the World

J

Jewish labor groups, 70

K

Kellogg Company, hours in, 541
 Keynes, John Maynard, 363-64, 393; *see also* Keynesian approach to economic analysis
 Keynesian approach to economic analysis, 393-97
 Knights of Labor, 40-42, 525

L

Labor
 definition of, 3-4
 demand for, 288 ff.

Labor—*Cont.*
demand for—*Cont.*
in the economy, 312–13
in the individual firm, 294 ff.
exploitation of, 307–10, 388
supply of, 265 ff.
to the economy, 276 ff.
to a firm, 271–75
to an industry, 249–50
to a locality, 250
long-run, 280 ff.
short-run, 268–70
variations in, 266–71
Labor dilemma, 398 ff., 455–58
Labor force, 5 ff., 354–56, 367, 409
Labor-Management Relations Act; *see* Taft-Hartley Act
Labor market, 243 ff.
definition of, 243–48
Labor movement, 31 ff.; *see also* Unions
Ladies Garment Workers Union, International, 55, 58, 59, 62, 85, 112, 336, 620, 659
Layoffs, control of, 199–205
Lea Act, 699
Lewis, John L., 53 ff., 66–67, 73, 77, 81, 95, 96, 97, 130, 180–81, 330, 389, 398, 402, 585
Licensing legislation, 194–95
“Little Steel” formula, 510
Lloyd-LaFollette Act, 781–83
Lockouts, 676–77
Locomotive Engineers, Brotherhood of, 118
Locomotive Firemen and Enginemen, Brotherhood of, 73, 113, 118
Longshoremen’s Association, International, 97, 166
Longshoremen’s and Warehousemen’s Union, International, 68, 103, 197

M

McCoy, Whitley, 735
McDonald David J., 93, 330
Machinists, International Association of, 48, 77, 85, 176, 336
Mahon, William D., 97
Maintenance of Union Membership; *see* Union security
Make-work policies, 205–10
Management prerogatives, 160 ff.
Marginal productivity theory, 290 ff., 383
critique of, 316
unions and, 310–11
Maritime Union, National, 61, 68, 93, 97, 198
Marx, Karl, 43, 519
Meany, George, 71, 134
Meat Cutters and Butcher Workmen, Amalgamated, 55, 94

Mechanization, 368–72; *see also* Automation; Wage pressure
Mediation, 736–39
Metal Trades Association, National, 48
Mine, Mill and Smelter Workers, International Union of, 61, 68
Mine Workers, United, 53, 62, 67, 77, 92, 95, 96, 101, 165, 174, 175, 180, 253, 391, 404, 463, 486, 659, 716; *see also* Miners Health and Welfare Fund
Miners Health and Welfare Fund, 586, 588, 599; *see also* Health and welfare plans; Mine Workers, United
Minimum wage laws, 481 ff.
and employment, 490–504
federal, 481–86
and North-South differential, 504–9
state, 486–90
Mitchell, John, 47, 53
Molders and Foundry Workers Union, International, 48, 90
Moore, Ely, 38
Multiunit bargaining, 217–25, 471
Municipal adjustment agencies, 738–39
Murray, Philip, 58 ff., 130, 175, 585
Musicians, American Federation of, 92, 96, 207

N

National Association of Manufacturers, 48, 49, 64, 189, 191
National Civic Federation, 47, 49
National Defense Mediation Board, 745–46
National Industrial Recovery Act, 54–55, 481, 525, 530, 553, 691
National Labor Relations Act, 22, 54, 72, 189; *see also* Wagner Act; Taft-Hartley Act
National Labor Relations Board, 75–76, 86–88, 91, 159, 693 ff., 760
National Labor Union, 40
National Right to Work Committee, 191
National War Labor Board, 62–63, 332, 509–10, 517, 744 ff.

Negroes

in labor force, 10, 12
and Taft-Hartley Act, 722
and unions, 117–19, 682
and wage differentials, 256
New Deal Era, 54 ff., 81, 520
New York State Board of Mediation, 737–38
Newspaper Guild, American, 97, 620
NLRB; *see* National Labor Relations Board
Noncompeting groups, 259–62
Norris-LaGuardia Anti-injunction Act, 21, 46, 54, 679–83, 690; *see also* Boycotts; Injunctions; Picketing
NRA; *see* National Industrial Recovery Act

O

OASDI; *see* Old Age, Survivors, and Disability Insurance

Office and Professional Workers, United, 68, 716
 Old age, problem of, 557-58, 562-66
 Old Age, Survivors, and Disability Insurance, 559 ff., 562-72, 578 ff.
 administration, 569-70
 benefits, 566-68
 coverage, 570-72, 580-82
 current issues, 577-78
 financing, 568-69
 Operating Engineers, International Union of, 87, 113
 Owen, Robert Dale, 38

P

Pensions, private or bargained, 584 ff.
 area plans, 588-89
 benefits under, 592
 compulsory retirement, 589-90
 contributory versus noncontributory, 586
 development of, 584-85
 effects of, 592 ff.
 eligibility, 590
 funding, 586-87
 vesting, 587-88
 Petrillo, James Caesar, 96, 207
 Philadelphia Cordwainers' case, 20, 37
 Photo-Engravers' Union, International, 53, 336
 Picketing, 678-79, 683-87; *see also* Norris-LaGuardia Anti-injunction Act; State labor relations legislation
 Piecework; *see* Wage incentives or piecework
 Plumbers and Steamfitters, United Association of, 111
 Political Action Committee, 80
 Political Education League, 80
 Population changes and labor supply, 280-86
 Powderly, Terence V., 41
 Printing Pressmen's and Assistants' Union, International, 98-99
 Production, laws of, 297-300
 Productivity, 437 ff.
 alternative means of distributing benefits of, 446
 annual improvement factor, 450-57
 and business cycles, 431-33
 distribution of gains, 447-49
 labor dilemma, 398 ff., 455-58
 nature of, 441-43
 shorter hours and, 533 ff.
 wages and, 437
 Profit-sharing plans, 178-80
 Protestant labor activity, 70
 Public assistance, 558-62, 572-77
 Public Contracts Act; *see* Walsh-Healy Act
 Public Workers, United, 68, 781

Q

Quill, Michael, 68

R

Racketeering, 127-30, 662
 Railroad brotherhoods, 73, 80-81, 117-18, 208, 525
 Railroad Retirement Act, 599-600
 Railroad unions; *see* Railroad brotherhoods
 Railway Labor Act, 690, 740-43
 Railway Labor Executives Association, 81
 Restraint of trade, 235, 669
 Restrictions on output, 205-7
 Reuther, Walter P., 68-69, 71, 90, 95, 130-32, 330, 417, 450
 Roosevelt, Franklin D., 54, 59-60, 66, 67, 80, 234, 509
 Rubber Workers, United, 87, 97, 101, 542-43
 Ryan, Joseph, 97, 166

S

Scale, law of, 299-300
 Seafarers' International Union, 61
 Seizures in labor disputes, 754 ff.
 Seniority, 199-203
 Sherman Antitrust Law, 46, 672, 681
 Skidmore, Thomas, 38
 Social insurance, 558-62
 Social Security Act, 558 ff.
 Socialist Trade and Labor Alliance, 44, 49
 State emergency strike laws, 752-58
 State labor relations legislation, 759 ff.
 State mediation agencies, 736-38
 Steelworkers of America, United, 60, 67, 77, 93, 101, 106, 112, 124, 165, 402, 404, 620, 716
 Strasser, Adolph, 42
 Street, Electric Railway and Motor Coach Employees of America, 97, 658
 Strike notices, 724, 732
 Strike votes, 732, 751-54
 Strikes, 225 ff., 345-48, 777 ff.
 classification of, 227-28
 courts and, 675-76
 noneconomic factors in, 229-30
 and Taft-Hartley Act, 711-14, 723-24, 749-51
 and Wagner Act, 699-700, 723
 SUB, *see* Unemployment benefits, supplementary

T

Taft-Hartley Act, 22, 46, 68, 86-87, 109, 113, 123-24, 142, 190-91, 209, 237, 589, 678, 686, 689, 699-729 735-36, 749-51, 780
 Taylor, Frederick, 52
 Taylor, Myron, 60
 Teamsters, Chauffeurs, Warehousemen and Helpers, International Brotherhood of, 54, 73, 77, 78-79, 336

Technological change, 210-15, 435-36; *see also* Automation; Mechanization; Wage Pressure
 competition with, 212-13
 control of, 213-14, 435-36
 obstruction to, 210-12, 475
 Technological unemployment, 366-73
 Textile Workers' Union, 87, 89, 620
 Tobacco Workers' International Union, 93
 Tobin, Dan, 97, 98
 Trade Union Educational League, 65
 Trade Union Unity League, 65
 Transport Workers Union, 68, 336
 Truman, Harry S., 160, 514, 585, 700
 Typographical Union, International, 58, 91, 92, 98

U

Unemployment, 349 ff.
 definition of, 352-56
 types of, 359 ff.
 cyclical, 359-62
 frictional, 374-76
 seasonal, 365-66
 secular, 362-65
 technological, 366-73
 volume of, 356-58
 wage distortion, 373-74
 and wage increases, 382 ff., 397 ff., 590-94
 Unemployment benefits, supplementary, 625-26, 628-33
 Unemployment compensation, 602 ff.
 administration, 617-19
 benefits, 607-8
 coverage, 604-5
 development of, 603-4
 eligibility, 605-7
 employee contributions, 614-15
 experience rating, 611-14
 financing, 608-11
 relation to dismissal wage, 625
 Unemployment insurance, definition of, 602-3; *see* Unemployment compensation
 Union-management co-operation, 461-64
 Union security, 187 ff., 709-11, 762
 checkoff, 188; 719
 closed shop, 187-88, 190-91, 709, 762
 maintenance of membership, 188
 union shop, 187-88, 190, 709-11, 762
 Union shop; *see* Union security
 Union tactics and the courts, 667 ff.; *see also* Norris-LaGuardia Anti-injunction Act; State labor relations legislation; Taft-Hartley Act
 antitrust laws, 672-73, 681
 boycotts, 677
 conspiracy cases, 667-68
 lockouts, 676-77
 picketing, 678-79, 683-87
 strikes, 675-76

Unions; *see also* Labor
 and business cycles, 412 ff.
 and industrial efficiency; *see* Efficiency
 and industrial research, 464-68
 and inflation and unemployment, 397-411, 455-58
 and inventions, 464-70
 membership, 74 ff.
 and monopoly power, 232-38
 organizing techniques, 139-41
 in politics, 79-83
 structure and government, 84 ff.
 United States Steel Corporation, 48, 52, 60, 63, 168, 330, 342, 405
 U.S. Conciliation Service, 730-35

V

Van Buren, Martin, 524

W

Wage changes and employment, 382 ff., 420-29, 490-504
 Wage cuts, union attitudes toward, 338-40
 Wage determination, 320 ff.
 Wage differentials
 geographic, 249-53
 industrial, 253-56
 occupational, 256
 race and sex, 256
 unions and, 262-63
 Wage-Hour Law; *see* Fair Labor Standards Act
 Wage incentives or piecework, 173 ff., 328
 Wage increases, general, 323 ff., 392 ff.
 criteria for, 324 ff.
 Wage payments, forms of, 170-80
 Wage pressure
 and invention, 464 ff.
 and mechanization, 389-91, 470 ff.
 and unions, 397-411
 Wage regulation by government, 481 ff.; *see also* Emergency wage regulation; Minimum wage laws
 Wage stabilization, *see* Emergency wage regulation
 Wage Stabilization Board, 332, 514-15, 751
 Wage structure, formalization of, 183-84
 Wages; *see also* Wage pressure; Wage increases, general
 bargaining theory of, 316-18
 and business cycles, 412 ff.
 dismissal; *see* Dismissal wages
 external, 321
 guaranteed annual; *see* Annual wage guarantees
 and inflation; *see* Inflation
 internal, 320
 real, 437-40
 theories of, 288 ff.
 Wages fund theory, 288-90

- Wagner Act, 689-99, 700 ff., 782
 Wallace, Henry, 68
 Walsh-Healy Act, 485-86, 525, 530
 War Labor Board; *see* National War Labor Board
 Western Federation of Miners, 49
 WLB; *see* National War Labor Board
 Woll, Matthew, 53, 59 n.
 Workmen's compensation, 635-50
 accident prevention and, 644-45
 administration, 640
 analysis, 642-44
 Workmen's compensation—*Cont.*
 benefits, 639-41
 development, 635-37
 financing, 641-42
 nature of, 613-14
 special provisions, 640-41
 Workweek, the, 519 ff.
 Wright, Frances, 38

Y

- Yellow-dog contracts, 21, 45-46, 673-74, 740

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